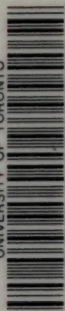


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Government  
of the  
WEST INDIES





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# Government of the WEST INDIES

By

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OXFORD  
AT THE CLARENDON PRESS

1923

Oxford · University Press

*London Edinburgh Glasgow Copenhagen*

*New York Toronto Melbourne Cape Town*

*Bombay Calcutta Madras Shanghai*

Humphrey Milford Publisher to the UNIVERSITY

JL

602

W76

Printed in England



## PREFACE

THIS book is intended to serve two purposes, and I am conscious that these purposes may appear at times inconsistent. It is designed, in the first place, to supply for the student of the constitutional history of the British Commonwealth a brief account of a neglected phase of that history; and, secondly, to provide an historical background for those who are interested in the political problems of the West Indies to-day. Those who refer to it for this second reason will probably not take great interest in such matters as the working of the old system of representative government in the seventeenth and eighteenth centuries, or the early history of British Honduras, or the first federation of the Leeward Islands. Those who take it up with the first object in view will find two chapters at the end which are not historical in character, and which have been included because it seemed that it might be well for a disinterested outside observer to try to draw some of the more obvious conclusions from the course of past history, even if these conclusions were only valuable for the purpose of refutation.

Little historical research in the scholarly sense has gone to the making of this book. It is based only on the more easily accessible of printed records, and it is intended to be no more than an outline. The West Indian colonies have received almost no attention from the scientific historian, and such attention as has recently been paid to them has been confined mainly to the first hundred and fifty years of their settlement. There is plenty of work still to be done before our knowledge even of recent events is moderately complete. But it appears to me that there is room for a short narrative of this nature,

to contribute in a small way towards filling the gap in our historical literature. I have allowed myself to dwell more fully than would be justified in most constitutional studies on the social aspects of West Indian history. In the West Indies economics, politics, and law are so closely intertwined, and the *ensemble* is so strange to the student from abroad, that some such course is essential for intelligibility.

My acknowledgements are due to Professor Coupland of Oxford University and to the Right Hon. L. S. Amery for advice and assistance; to Sir Sydney Olivier, K.C.M.G., especially, for much valuable criticism, without which this book would have had many more defects; and to the Rhodes Trustees for their generous assistance in bringing about its publication.

H. H. W.

TORONTO, *July* 1922.



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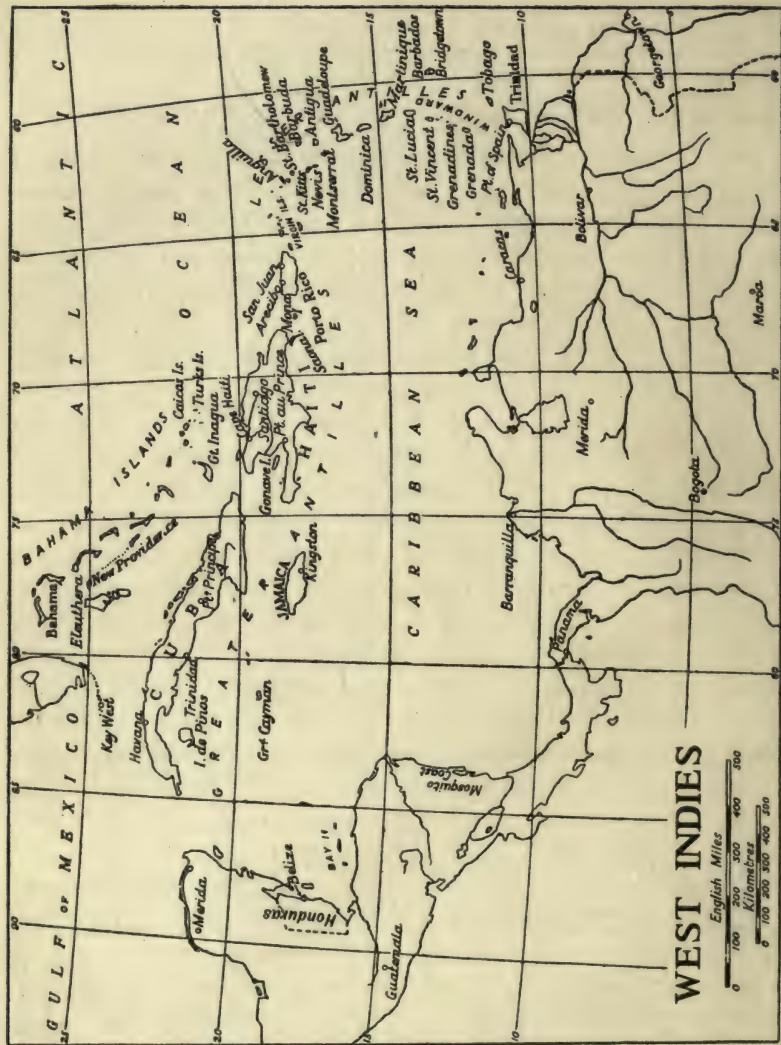
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Colony.	Population.			Area. sq. miles.
	Census 1921.	Census 1911.	Per sq. mile, 1921.	
Bermuda . . .	20,127	18,994	1,059	19
Bahamas . . .	53,031	55,944	12	4,404
Barbados . . .	156,312	171,983	940	166
British Guiana . .	297,691	296,041	3·3	89,480
British Honduras . .	45,317	40,458	5·3	8,598
Jamaica . . .	858,118	831,383	204	4,207
Cayman Islands . .	5,253	5,564	59	89
Turks and Caicos Islands	5,612	5,615	34	165
<i>Leeward Islands :</i>				
<i>Total</i> . . .	112,242	127,189	158	708
Antigua . . .	28,864	31,394	270	107
Barbuda . . .	903	871	14	62
St. Kitts . . .	22,415	26,283	329	68
Nevis . . .	11,569	12,945	231	50
Anguilla . . .	4,230	4,075	125	34
Montserrat . . .	12,120	12,196	379	32
Virgin Islands . .	5,082	5,562	102	50
Dominica . . .	37,059	33,863	121	305
Trinidad . . .	339,402	312,803	193	1,754 }
Tobago . . .	23,378	20,749	205	114 }
<i>Windward Islands :</i>				
Grenada and Grenadines . . .	66,302	66,750	498	133
St. Vincent and Grenadines . . .	44,447	41,877	296	150
St. Lucia . . .	51,505	48,637	221	233
<i>Total, excluding Bermuda</i>	2,058,610	2,024,993	18·5	110,201
<i>Total, for islands only</i> .	1,715,602	1,688,494	141·5	12,123



Racial Division, In Percentages.					Remarks.
White.	Coloured and Black.		East. Indian.	Other.	
34·8	65·2		—	—	No racial census ever taken.
about 16	about 84		—	—	
6·7	21·9	71·4	—	—	
4·2	10·3	39·4	41·5	4·6	The whites include 3·08 per cent. Portuguese; other Europeans only 1·11 per cent. of total. 'Others' native Indian and Chinese.
—	—	—	—	—	
—	—	—	—	—	
14,500	157,300	602,000	—	—	No racial classification possible; less than 5 per cent. white, and majority negroid.
1·7	18·3	77	2·2	0·8	
38	46·3	15·7	—	—	
3·7	26·7	69·6	—	—	<div>18</div> <div>16,000</div> <div>70,000</div> <div>300,000</div>
3	97	—	—	—	
4	96	—	—	—	
0·5	99·5	—	—	—	
6	94	—	—	—	
1	99	—	—	—	
3·2	96·8	—	—	—	
1·2	98·8	—	—	—	
0·7	99·3	—	—	—	
1·5	98·1	—	—	0·4	
about 4	about 60	36	—	—	
1·4	17·6	76·9	4·1	—	Noracial census taken, except of East Indians.
about 2	about 97·4	0·6	—	—	
about 2	about 94	4·2	—	—	

*Note.*—The figures of racial classification are largely conjectural, and even where census returns are available the accuracy of the classification is doubtful. The totals for the West Indies may be estimated as 3·5 per cent. white, 82 per cent. negroid, 12·5 per cent. East Indian (this figure is accurate), and 2 per cent. others, chiefly Chinese and native Indian. A distinction is made in the West Indies between black (i.e. full-blooded negro) and coloured (i.e. with some mixture of white blood). Not more than one-fifth and probably not less than one-seventh of the negroid inhabitants of the West Indies have some white blood.





# I

## INTRODUCTORY

### § 1. *The British Colonies To-day*

SCATTERED widely throughout the islands and mainland which on all sides enclose the Caribbean Sea, interspersed among independent republics and the colonial possessions of foreign nations, there are eight separate British colonies, six insular and two continental. The expression 'West Indies' implies no definite geographical limits, and it is mainly a matter of opinion how many of these colonies should properly be reckoned as West Indian. Sometimes the meaning of the phrase is contracted so as to exclude the mainland territories of British Guiana and British Honduras, and the Bahama Islands; sometimes it is stretched to cover even Bermuda in its Atlantic isolation. There seems to be no objection, but rather considerable advantage, in defining the British West Indies as embracing all the eight colonies, insular and continental, in the vicinity of the Caribbean, though this usage should not convey any implication of unity beyond the vague geographical unity involved in a common situation in the neighbourhood of a great ocean amphitheatre. It is in this sense, then, that the term is here used; but since Bermuda, though geographically distinct, is constitutionally akin to the West Indian colonies proper, an account of its system of government is given in the following pages.

Of the eight West Indian colonies the Bahama Islands are the northernmost, extending in a chain over six hundred miles in length from the coast of Florida to Cuba and Haiti. They are low, barren for the most part, and difficult of approach, with their scanty population dispersed among almost thirty islands, and with their centre of government at Nassau in the small island of New Providence towards the northern end of the chain. Isolated from the other West Indian colonies by their position, their physical character, and their products, and from each other by the difficulty and irregularity of inter-insular communications, they have always occupied an obscure place in

the colonial empire, except on a few occasions when their situation has chanced to give them a temporary importance.

To the south, within the ring of the Antilles, lies Jamaica, the largest of the British islands and the most populous of the West Indian colonies. In Jamaica, with its mountainous interior, is found a variety of soil and climate uncommon in a tropical island, together with scenery of the greatest beauty and diversity. It also is isolated from the other British possessions by hundreds of miles of sea, and of recent years by the different orientation of its trade, but in its past history may best be read on the largest scale the story of British rule in the Caribbean, and in its present problems may be seen in the most fully developed form some of the chief political and economic difficulties of the West Indies. Attached to Jamaica as dependencies are two small groups, the Cayman Islands two hundred miles to the north-west, and the Turks and Caicos Islands at the south-eastern end of the Bahama chain.

Wedged among Central American republics, on the mainland six hundred miles west of Jamaica, is British Honduras, a land of flat mangrove coasts and many rivers, of great forests and small clearings, with a placid coast sheltered by a natural breakwater of reefs and cays forty to sixty miles from the shore. Cut off from the eastern colonies by the full width of the Caribbean, it became a British colony almost in spite of the efforts of the British Government, and it has followed a distinct course in history and economic development. It now contains a sparse and motley population, but its comparatively large area leaves much room for future growth.

The colonies in the Lesser Antilles, on the Atlantic side of the Caribbean, have more in common than these three colonies of the north and west. The chain of the Lesser Antilles is shaped like a bow bending eastwards into the Atlantic. It is composed of small islands which for the most part are rugged and volcanic peaks, scored by rich valleys with fertile alluvial flats. From the time of the first European occupation in 1624 to the end of the Napoleonic wars this group was the scene of almost continuous warfare and the prize of victory. On these steep slopes and in these treacherous seas was fought a long succession of contests, great European wars, petty local battles between the



colonists of various nations, savage struggles with wild native Caribs and runaway slaves. The last peaceful changes of ownership<sup>1</sup> have left them in the hands of four nations, Great Britain, France, Holland, and the United States, but the British have by far the largest share, and the Dutch and American islands are relatively insignificant.

The British islands which lie to the north of the French island of Martinique are joined in the federal colony of the Leeward Islands. The federation is made up of five presidencies: the Virgin Islands, a scattered group of small rocky islets; St. Kitts (officially St. Christopher) and Nevis, with their dependency Anguilla; Antigua with its dependencies Barbuda and Redonda; Montserrat, and Dominica. Antigua is the seat of the federal government, and St. Kitts the scene of the earliest successful efforts at colonization in the West Indies by both British and French. Dominica, cut off from the other islands by the French island of Guadeloupe, is by far the largest, but also the least developed, of the Leeward Islands.

To the south of Martinique the chain of the Lesser Antilles is continued towards the coast of South America by the Windward Islands. This group now includes only Grenada, St. Vincent, St. Lucia, and the little Grenadines. The three larger islands share a Governor, who has his seat at Grenada, but in all other respects they are separate colonies, since each island maintains its own distinct laws and treasury. They have not even community of language among them, for the speech of a majority of the people of St. Lucia is still a French patois.<sup>2</sup> For administrative purposes the Grenadines are divided between Grenada and St. Vincent.

One hundred miles east from St. Vincent, in the open Atlantic outside the bow of the Lesser Antilles, lies Barbados. Not volcanic, but low-lying, of great fertility and cultivated to the utmost, British from the year of its first settlement in 1626 without a break, this small territory of 166 square miles has always shown great activity and supported a very numerous

<sup>1</sup> The transfer by Sweden to France of St. Bartholomew in 1878, and the sale by Denmark to the United States of the Danish Virgin Islands in 1917.

<sup>2</sup> This is found also in some of the negroes of Trinidad and Dominica, and to a lesser degree in Grenada.

population. Its position as the farthest east of the islands long ago made it an important centre for traffic from Europe ;<sup>1</sup> and its early development and long uninterrupted connexion with the British Crown give to it a peculiar prestige. At various times the seat of government for other islands, since 1885 it has been a separate colony.

Over against the mainland of South America, the two islands of Trinidad and Tobago are united in a single colony. Tobago, after a lurid history in the course of which it changed hands more frequently even than any other of the Lesser Antilles, became British finally in 1803, and in 1899 was completely merged with Trinidad for all purposes of government. It is a small island and backward, afflicted by past political vicissitudes and faulty communications. Its large partner, Trinidad, after centuries of stagnant Spanish rule, now produces more for the export market than any other of the West Indian colonies of Great Britain, by reason of its mineral wealth and great fertility, together with its magnificent natural harbour in the Gulf of Paria.

British Guiana, on the mainland not far to the east of Trinidad, in size and possibility of future economic development surpasses by far all the rest of the British West Indies put together. Its low swampy coast is cut by a series of large rivers leading inland through alluvial plains to a densely forested interior, which opens out here and there into great savannahs. Almost the whole of the remarkably heterogeneous population is concentrated on a few hundred square miles of narrow plain between the forest and the sea, where the Dutch before the British occupation began the task of reclaiming the sodden land, and securing it by an elaborate system of dikes. Here and in Trinidad the immigrants brought from India under indenture form a very important section of the population. Negro and East Indian, aboriginal native and Chinese, Portuguese and members of many of the other races of Europe, with the offspring of most of the possible varieties of intermixture, live in peace side by side.

<sup>1</sup> This is especially true of the days of sailing ships, for the steady trade winds come from the east ; and hence any other island could be reached easily from Barbados, while the return voyage was difficult and frequently dangerous. Its strategic position made Barbados before the days of steam an important military and naval centre, despite the absence of a protected harbour.



Geography forbids that the Bermuda Islands should be considered as West Indian, for they lie in a circle of reefs far out in the Atlantic off the coast of the United States, 580 miles east from Cape Hatteras in North Carolina, and roughly 800 miles from both Halifax in Nova Scotia and Nassau in the Bahamas. In comparison with them even Barbados seems large, for the surface of the Atlantic is broken by only nineteen square miles of coral-built rock. The settlement of the Bermudas was one of the earliest colonial enterprises of England, and though it is westwards to New York that their trade is now naturally directed, their allegiance to the British Crown has been unbroken since their occupation in 1612. In economic conditions they have little in common with the West Indies, for their physical configuration is such that agriculture can support only a small part of the inhabitants; the tourist, the soldier, and the sailor are the main sources of livelihood.

### § 2. *The Character of the Colonial Governments*

Such is the variegated character of the West Indian colonies, some cut off from others by long stretches of sea, vastly different in size, population, and historical development; and no less diversified in their forms of government. Indeed, so great is the variety of their political institutions that it may seem vain to attempt a description otherwise than by an enumeration of the political features in each separate colony, and hopeless to search here for common causes leading to similar results. Yet they have much in common: in all the great majority of the population is descended from African slaves, except in Trinidad and British Guiana, where the labour supply has been supplemented by immigration from India on a large scale; in all the negro stock has been affected by a considerable intermixture of white blood; in all there is only a handful of residents of European origin, who control almost entirely the business of the colonies; all are agricultural communities producing similar articles for export; and in most of the colonies there was once a uniform system of government to which the present variety has succeeded only in the last sixty years.

In the following pages a description is attempted of the forms of government which now prevail, and of the constitu-



tional path along which each colony has travelled, especially since 1850. The account given of the system of government under the old colonial constitutions, from the time of the first English colonization in the Caribbean, is intended to be in the nature of a preface to later events. The long and vivid story of the bitter rivalry of European nations for the ownership of the Antilles, of the growth of a system of slavery becoming progressively more complete, of the recurring crises in the economic history of the islands,—all the brilliant tropical colour of the reckless gallantry, savage cruelty, vain hopes, and great accomplishments, of Englishmen in the Caribbean in the seventeenth and eighteenth centuries,—can only be touched on incidentally. Yet the constitutional history of the colonies, though drab perhaps by comparison, is not without interest, and has been curiously neglected.

Thus in the West Indies the student of the constitutional evolution of the British Empire may see the process of change, familiar in the Dominions, from representative to responsible government, reversed by the gradual elimination of elected Assemblies. He may examine here and in Bermuda the only three surviving examples of the old form of colonial representative government, a system which has left its mark deeply on the constitution of the United States, especially in the separation of the powers of executive and legislature. He may study in the early history of British Honduras, and in the surviving example of the Cayman Islands, instances of primitive and spontaneous democracy set up without the sanction of the Crown. He may investigate in the Leeward Islands both a very early and a comparatively recent example of political federation. He may, above all, explore a whole series of attempts to compromise between the grant to the colonies of representative institutions and the grant of full responsible government, the same problem which has recently been faced in a new way and on an infinitely greater scale in India. The field is rich with constitutional experiments and political devices, tropically luxuriant as the soil of the colonies themselves, with a variety almost alarming in its profusion.<sup>1</sup>

<sup>1</sup> A study of the table at p. 80 will show the manifold variety of constitutional experience in the West Indies.

In the official classification of the Colonial Office the West Indian colonies are now divided constitutionally under four heads<sup>1</sup>: (i) *Colonies possessing an elected House of Assembly and a nominated Legislative Council* (the form referred to hereafter as the Old Representative System), Barbados, the Bahamas, and Bermuda; (ii) *Colonies possessing a partly elected Legislative Council, the constitution of which does not provide for an official majority*, British Guiana; (iii) *Colonies possessing a partly elected Legislative Council, the constitution of which provides for an official majority*, Jamaica and the Leeward Islands; (iv) *Colonies possessing a Legislative Council nominated by the Crown*, British Honduras, Grenada, St. Vincent, St. Lucia, and Trinidad and Tobago. To this list various subordinate assemblies must be added: to class iv those of four of the five presidencies in the Leeward Islands federation, and that of the Turks and Caicos Islands; and to class ii that of the Cayman Islands. The classification is not wholly satisfactory; in British Guiana, for instance, there is only an elected majority in the legislature for financial business, and in the Leeward Islands elected representatives have been practically eliminated. It serves, however, to show both the variety of legislative organization and the multiplicity of law-making bodies in the West Indies. There are no less than ten principal and six subordinate legislatures, a total of sixteen for slightly over two million people.

One common feature of the greatest importance, which lies beneath this wide diversity of political organization, is that in all the colonies the control of the executive government, both in law and in fact, remains vested in the Crown acting through its representative, the Governor. To none of the West Indian Governors has that simple instruction ever been issued, by which the Dominions were changed from colonies into states with complete domestic autonomy: that the Governor was thenceforth to select his ministers from those who could command the support of a majority in the legislature. The Governor still governs in the West Indies. He remains the chief officer of the executive, and in most of the colonies he is as well the most important member of the legislature. The power he possesses,

<sup>1</sup> Ch. I, § 1, of *Regulations for H.M.'s Colonial Service*, printed annually in *The Colonial Office List*.



it is true, varies in accordance with the amount of independent action which has been granted to the legislatures ; the Governor of Trinidad, for example, with his nominated Legislative Council, is a more powerful ruler than the Governor of Barbados with his elected Assembly ; but the Governor of Barbados is still his own Prime Minister, and he is responsible, not to the Assembly, but to the Crown acting through the Secretary of State for the Colonies.

The law of the West Indian constitutions is to be discovered only by the examination of a great range of documents of varying legal validity, and it has been supplemented, especially in colonies in which old-established forms still persist, by many customary accretions. The authority of the Governor in all the colonies is derived from three documents issued by the Crown : his Commission, the Letters Patent by which the governorship in each colony is constituted, and the Instructions to the Governor under the Royal Sign Manual and Signet. The first, issued to each individual Governor, is his authority for exercising such powers of government, legally vested in the Crown by prerogative, as are defined in the other two instruments. These documents vary in detail from colony to colony, but on the whole they provide the Governor with the same legal powers in each.

The documentary basis of the legislatures is more varied. To colonies which came under the old representative system (that is, in which an elected Assembly had been set up in accordance with instructions from the Crown), the Crown was held to have made an irrevocable grant of its legislative powers.<sup>1</sup> In them the Assemblies could only be modified by their own action, or by the intervention of the Imperial Parliament.<sup>2</sup> Local acts regulated the franchise and method of representation. In the three colonies which have kept their Assemblies, the constitutional foundation is the instruction from the Crown by which the summoning of the Assembly was first authorized, and this has been filled out by local acts and by the growth of

<sup>1</sup> This was finally established in *Campbell v. Hall* in 1774 by Lord Mansfield, when an attempt was made to levy by Letters Patent an export duty in Grenada after an elected Assembly had been set up. Mansfield held that this attempt was *ultra vires*.

<sup>2</sup> Actually the Imperial Parliament has never intervened in the West Indies to change the old representative system. Where changes have been made, the Assemblies have themselves enacted them.



customary procedure. In the conquered colonies of British Guiana, Trinidad, and St. Lucia, no surrender of the right of legislation by Order in Council has been made by the Crown, and in Jamaica, Grenada, St. Vincent, and Tobago, this right of legislation, once surrendered, has now been restored by the local legislatures; in these islands the legislative organization is either provided for in the same documents as the executive (Letters Patent and Instructions), or prescribed by special Orders in Council, such as those which ordain the form of the legislature in Jamaica.<sup>1</sup> In British Guiana, however, certain local rights are in addition guaranteed by the terms of capitulation under which the colony was surrendered by the Dutch in 1803. In the five presidencies of the Leeward Islands and in British Honduras, though changes have been made from the old representative system similar to those in Jamaica and the Windward Islands, the Crown's power of legislation has never been restored, and the elimination of the elected Assemblies has been effected by local laws. Further, in certain cases in which legislation was required which was beyond the restricted territorial competence of the local legislatures, the powers of the Imperial Parliament have been invoked, either to prescribe by statute the new relationship, such as in the federation of the Leeward Islands in 1871 and the attachment of the Cayman Islands to Jamaica in 1863; or to give the Crown power to do so by Order in Council, as in the junction of Tobago with Trinidad in 1888 and the attachment of the Turks and Caicos Islands to Jamaica in 1873. The latest example of legislation of this nature was the passage by the Imperial Parliament in 1919 of an Act authorizing the establishment of a West Indian Appeal Court.<sup>2</sup> This brief review shows that the documentary authorities for the present constitutions of the West Indian colonies are of great variety, including imperial and local statutes, Orders in Council, Letters Patent, Instructions to the Governors, and, in one instance, terms of capitulation.

<sup>1</sup> This means in effect that in the colonies enumerated the British Government may alter the constitution (or, indeed, perform any duty normally carried out by the local legislature), without consulting Parliament, by an executive act; for example, a partly elected legislature could be made into a wholly nominated one without its own approval, whereas the Assembly of Barbados could only be done away with by its own act, or by Parliament.

<sup>2</sup> Imp. Act 9 & 10 Geo. V, c. 47.

## II

### THE OLD REPRESENTATIVE SYSTEM BEFORE THE ABOLITION OF SLAVERY

#### § 1. *The Early Social Background*

THIRST for gold, enmity to Spain and jealousy of her rich conquests, hostility towards the reigning powers in England, desire for freedom of religion, these were the chief motives which first brought English colonists to the Caribbean. But the impulse behind them was commercial: it was a London merchant, Sir William Courteen, who sent in 1626 the first settlers to Barbados, and another, Ralph Merrifield, who dispatched Sir Thomas Warner in 1624 to found St. Kitts. If gold was not to be found in mines or paving the streets of Raleigh's El Dorado, it was to be won by supplying the markets of Europe with tropical luxuries, at first tobacco, ginger, indigo, chocolate, and cotton, but later and pre-eminently sugar. England was no longer to be drained of her money through the wasteful purchase from foreigners of exotic products, and in addition new sheltered colonial markets were to be opened for the consumption of English goods. In this way colonial expansion was at first left to private initiative for the most part, though to this commercial rule of colonization Cromwell's bid for a tropical empire in competition with Spain, which resulted in the capture of Jamaica, was a notable exception. In the Navigation Acts there is an epitome of the thoroughly mercantile character of early West Indian settlement.<sup>1</sup>

At first the English were confined to the smaller islands which had been scornfully passed over by the Spaniards in their search for the spoils of a continent. In them, and especially in Barbados, development was remarkably rapid. A visitor in 1634 found Barbados already 'the granarie of all the Charybbies Iles', and in Montserrat he discovered 'a noble plantation of Irish Catholiques whome the Virginians would not suffer to

<sup>1</sup> See table at p. 80 for date of settlement or capture of each colony.

live with them because of their religion'.<sup>1</sup> Henry Whistler, at Barbados in 1655 with Penn and Venables on their way to the capture of Jamaica, noted in his journal: 'This Island is one of the Riches Spotess of ground in the wordell and fully inhabited. . . . The Illand is but small; but it maintains more soules then any peesse of land of the bignis in the wordell'.<sup>2</sup> Yet at that time the colony was not thirty years old. In the Leeward Islands, Antigua, Nevis, and Montserrat were by 1632 settled by the English, and St. Kitts was shared between English and French. In them development was slower, partly because they were in continual danger of French attack when once the early *entente* between French and English, inspired by common enmity to Spain, had disappeared—a danger realized by their complete devastation in 1666—and partly on account of the menace from the sturdy and savage Carib Indians.

The character of the English pioneers seems to have left a good deal to be desired. Whistler succinctly calls Barbados 'the Dunghill wharone England doth cast forth its rubidg: Rodgs and hors and such like peopel are those which are gennerally Broght heare. A rodge in England will hardly make a cheater heare: a Baud brought over puts one a demuor comportment, a whore if hansume makes a wife for sume rich planter.' Further, 'the gentry heare doth liue far better then ours doue in England: they haue most of them 100 or 2 or 3 of slaves apes [apiece?] whou they command as they pleas: hear they may say that what they haue is thayer oun: and they haue that Libertie of Contienc which wee see long haue in England foght for: But they doue abus it'.<sup>3</sup> Richard Ligon has left a published account of his stay in Barbados from

<sup>1</sup> From *Father White's Briefe Relation*, in *Narratives of Early Maryland* (ed. Hall, New York, 1910), pp. 29-45.

<sup>2</sup> Quoted in *The Narrative of General Venables* (ed. Firth, Roy. Hist. Society Publications, 1900), pp. 145-6.

<sup>3</sup> *Ibid.*, p. 146. For the shortage of white women, compare Smith's *History of Virginia*: 'By this ship (in 1620) the Company sent (to Bermuda) a supply of ten persons for the generality, but of such bad condition that it seemed they had picked the Males out of Newgate, the Females from Bridewell; as the Governor found it his best course, to grant out the women to such as were so greedy of wives, and would needs have them for better for worse' (Smith's *Works*, ed. Arber, 1910, ii. 676). This condition lasted for many years. In Gay's *Beggar's Opera* (first printed in 1728) Macheath addresses Polly and



1647 to 1650. He went out with some royalists who were seeking a more congenial home, among them Modyford, who was shortly to become a prominent figure. Ligon was sixty when he left England, and he felt that an explanation was required of his having undertaken so hazardous a journey late in life: 'Having lost (by a Barbarous riot) all that I had gotten by the painfull travells and cares of my youth; by which meanes I was stript and rifled of all I had, left destitute of a subsistance, and brought to such an Exigent, as I must famish or fly. . . . I found myselfe a stranger in my owne country.'<sup>1</sup>

Of such material were most of the early settlers made, and it was not a bad material in that pioneer society, although Ligon's years prevented his own success. He took a far more favourable view of the planters than did Whistler: 'Their natures and dispositions I found compliable in a high degree to all vertues';<sup>2</sup> his testimony, however, is biased. Christopher Jeaffreson, writing from St. Kitts in 1681, enumerates all the kinds of vagabonds that might be induced to emigrate as servants, and comments: 'These and the like humours first peopled the Indies, and made them a kinde of Bedlam for a short tyme. But from such brain-sick humours have come many solid and sober men, as these modern tymes testify.'<sup>3</sup> Sir Josiah Child a few years later stigmatized the first settlers in Virginia and Barbados as 'a sort of loose vagabond people,

Lucy as follows: 'If you are fond of marrying again, the Best Advice I can give you is to Ship yourselves off for the West-Indies, where you'll have a fair Chance of getting a Husband apiece, or by good Luck, two or three, as you like best' (Act III, Scene 15).

<sup>1</sup> *A True and Exact History of the Island of Barbados* (1657), 1. This book, written in a London debtor's prison, contains one of the most vivid and detailed pictures of early West Indian society left to us. The following passage from Cervantes (*Exemplary Novels, The Jealous Husband*, tr. Mabbe, 1640) provides an interesting analogy: 'Now, seeing himself in want of moneys, and not having many friends, he had recourse unto that remedy whereunto many other decayed persons and such as are broken in their estates commonly have recourse, to wit, to go for the Indies, the refuge and protection of all your unthrifths and desperate people of Spain, the sanctuary of bankrupts, the safe-conduct of murtherers, the cloak and cover for your cunning gamesters, to whom some give the name of cheaters, the common lure whereunto your looser women stoop, the general deceiving of many and the particular relieving of few.'

<sup>2</sup> Op. cit., p. 57.

<sup>3</sup> Quoted in Higham, pp. 169-70.

vicious and destitute of means at home'.<sup>1</sup> The first clergyman to go to Barbados was so disgusted at the prevailing dissipation that he is said to have left almost immediately on a fruitless attempt to settle Tobago, rather than remain longer in such an abode of sin. Dissolute West Indian society certainly was, but there was a great deal of energy and ability as well among the first settlers, and in Barbados a strong royalist element of high family connexions was in no small measure responsible for the amazing prosperity of the island.<sup>2</sup> The second generation, as Jeaffreson noted, was more stable than the first. Yet, at the best, the splendour and luxury of the wealthy planters could not conceal the cruel and sordid foundation on which it was based.

This cruelty at first most stood out in the treatment of the lower classes of European inhabitants in the islands, the indentured white servants. Ligon, in spite of his fondness for the planter, here attempts no defence: 'Truly I have seen such cruelty there done to Servants, as I did not think one Christian could have done to another.'<sup>3</sup> There is plenty of corroborative evidence. This form of labour was largely recruited from political prisoners during the Civil War and after Monmouth's rising. The number of Irish especially in some districts became a nuisance, as they not infrequently took sides with the French. When there were no political opponents to be deported from Britain the jails were a normal source of supply, though there was some voluntary emigration, and a good deal of kidnapping. Since the slavery of the white-servants was terminated after a period of years, their masters did not have the same economic interest in giving them as good treatment even as negro slaves, and if they fell into the hands of a bad planter their lot was miserable indeed.<sup>4</sup> At first they were intended for labour

<sup>1</sup> Quoted in Egerton, p. 39.

<sup>2</sup> 'This island rose to such a pitch in the year 1661 that king Charles II created, on the same day, 13 baronets in Barbadoes, none of them having less than 1,000, and some of them 10,000 *l.* a year. At this time their trade actually maintained 400 sail of ships.'—Postlethwayt, *Dict. of Commerce* (1774), ii, article on 'Sugar Colonies'.

<sup>3</sup> *Op. cit.*, p. 41. In listing the articles of servants' diet he includes *puffins*, imported from the Scilly Islands expressly for that purpose.

<sup>4</sup> During the term of their indenture the servants were treated as slaves;



in the fields, but soon they were replaced in this work by the hardier negroes. They were retained principally to serve in the militia and as artisans, and for other duties for which negroes were unfitted. With the rise of black slavery the worst abuses of white servitude disappeared. The servants became too scarce and valuable to be treated with brutality. From their ranks the buccaneers were provided with many recruits; Sir Henry Morgan, Lolonois, and Esquemeling, their historian, first came to the West Indies as indentured servants.<sup>1</sup>

The negro slaves were the third chief division of the inhabitants. Negroes were introduced almost as soon as the first settlers arrived; they had appeared in the Spanish colonies within ten years after Columbus's first voyage. At the very beginning it was thought that the English islands could be colonized by white men; in 1643 it is said that there were 18,600 English in Barbados, of whom 8,300 were proprietors owning only 6,400 slaves; in 1666 several thousand English were deported from their half of the small island of St. Kitts on its capture by the French. In Old Providence, a tiny island off the coast of what is now the Republic of Nicaragua which was a British colony for only eleven years (1630 to 1641), 'it is possible to trace the course of its development from the early

witness the record of Assizes in Bermuda on 14 Sept. 1658: 'The Jury for his highnes The Lord Protector of England do present Tomakin, Clemento, Black Dick, servants (i.e. negro slaves) to Mrs. Anne Trimmingham, Jeames Benninge, Skotsman, John Chehen and David Laragen, Irishmen: black franke a negro servant to Mr. John Devitt, and Edmund Malony, all of them inhabitants of the Somer Islands, servants, ffor that they not having the fear of God before their eyes' went into a barn at night and stole a boat. 'They were found not Guilty; yet the Governor and Counsell knowing them to be night walkers, and out of their masters and mistresses House that night, they were censured by the unanimous consent of the whole bench to receive 31 lashes upon their naked backs, wch. was done the 15th accordingly.' (Quoted in Lefroy, ii. 115.)

<sup>1</sup> For an account of white servitude in the West Indies from 'the point of view of defence, see Fortescue, *History of the British Army*, ii. 37-42. The system of indenture continued during the eighteenth century; in an account of a voyage to Antigua in 1774 it is mentioned that certain Scottish emigrants, unable to pay for their passage in full, 'had bound themselves slaves for a certain number of years to pay the rest. Lawson bound himself double to save his wife and daughter.' (*Journal of a Lady of Quality*, ed. Andrews, Yale, 1921, p. 55.)



ideal of the colony as a home for Englishmen to the realization of a tropical plantation where all the manual labour was performed by negro slaves for the profit of a few white planters',<sup>1</sup> even in that short period and in that small island. The planter soon found that a plentiful labour supply was the first requisite of profitable tropical agriculture, and that the negro was the cheapest, strongest, and most tractable of human live-stock. So early as 1621 the Governor of Bermuda wrote that slaves were 'the most proper and chief instruments of this plantation', although Bermuda by nature was far less well adapted for agricultural slavery than any of the other islands.<sup>2</sup> Gradually the white labourer was ousted from the plantations and the small farmer from his holding, in spite of continued legislative efforts to insist that a heavy proportion of white servants should be kept on each estate as material for the militia, for protection against negro risings even more than foreign attack.<sup>3</sup> The danger from revolting slaves was very real; the history of all the islands is full of the records of negro rebellions ruthlessly suppressed. For example, in Antigua in 1736 a projected rising was discovered before any whites had been injured; as punishment sixty-nine negroes were executed, five by being broken on the wheel, six by being hung in chains until they starved, and fifty-eight by being burned at the stake.<sup>4</sup> In fact and in law the slaves were regarded as property, a useful species of cattle from which the good manager should seek to extract the maximum of work with the minimum of disease and expense.

Such were the social conditions when Barbados, the Leeward Islands, and, later on, Jamaica, were developing as British colonies. The romance of early West Indian history largely vanishes on a close inspection, for the colonies were plantations, and it was the gold they yielded that led to their continuance. When the great land-owners began to drift back to England and

<sup>1</sup> A. P. Newton, *The Colonizing Activities of the English Puritans* (Yale, 1914), p. 5. This book contains a detailed account of Old Providence under British rule.

<sup>2</sup> Quoted in Beer, *Origins of Brit. Col. System*, p. 266.

<sup>3</sup> The so-called 'Deficiency Laws'; in Jamaica one white was required for every ten negroes by a law of 1672, and there was similar legislation in other colonies.

<sup>4</sup> Oliver, *Antigua*, i. p. c.

leave their estates to be administered by hired subordinates, this became more and more obvious ; so long as the dividends were forthcoming, the means by which they were secured counted for little. The by-products of this society were no more attractive. The buccaneers were not gallant knight-errants of the sea : most of them were sordid scoundrels, capable of bestial ferocity for the sake of plunder ; ' gold and gain is the only god they worship ', wrote a disgruntled emigrant to Jamaica in 1669.<sup>1</sup> Yet for a time buccaneering was regarded almost as a respectable trade, one which a god-fearing merchant need not fear to support, nor, it was whispered, a king to subsidize. No contrast could be greater than that afforded by the early West Indian colonies and the contemporaneous growth of the Puritan settlements in North America, even allowing for the maximum exaggeration in the Puritan legend. Yet it is true that if slavery had never been introduced the West Indian colonies would hardly exist to-day ; experiments in the use of white labour repeated over two and a half centuries have never proved successful, and there was then no source of supply for coloured labour but Africa, and no possibility of peopling the islands by any form of voluntary immigration.

## § 2. *The Establishment of Settled Government*

In Barbados and the Leeward Islands, after a period of confusion following their first settlement, during which the problems of government were submerged beneath the vital necessity of winning a foothold in a new land, the familiar outlines of Governor, Council, and Assembly appeared on the North American model. Most of the Lesser Antilles had been granted by the Crown in 1627 to the Earl of Carlisle as proprietor, under a charter which provided that laws were to be made ' with the Consent, Assent, and Approbation of the freeholders of the said Province, or the greater part of them thereunto to be called '. This charter was the authority for the institution, during the troubled period of proprietary rule, of Councils and Assemblies, though the Assemblies at first did not sit generally as separate

<sup>1</sup> Quoted in Beer, *Old Col. System*, ii. 63. The term ' buccaneer ' had a variety of meanings, ranging from a licensed plunderer of Spanish commerce with the cognizance of the Government to the most savage sort of pirate.



bodies, but were added for certain purposes to the Governors-in-Council.<sup>1</sup> When Ligon was in Barbados he found the system in full swing, with a legislature consisting of 'the Governour, as Supream, his Councell in the nature of Peers, and two Burgeses chosen by every Parish for the rest'.<sup>2</sup>

In 1651 we find the Lord Lieutenant-General of Barbados, the Lords of the Council, and the Assembly, haughtily throwing down the gauntlet to the Commonwealth Parliament:

'Shall we be bound to the Government and Lordship of a Parliament in which we have no Representatives or persons chosen by us? . . . In truth this would be a slavery far exceeding all that the English nation hath yet suffered. And we doubt not but the courage which hath brought us thus far out of our own country, to seek our beings and livelihoods in this wild country, will maintaine us in our freedoms; without which our lives will be uncomfortable to us.'<sup>3</sup>

This proud community, then in existence for scarce twenty-five years, dared to demand direct representation in Parliament, and to threaten independence.<sup>4</sup> Royalist Barbados was only subdued by the Commonwealth on the arrival of a fleet under Admiral Ayscue. The terms of capitulation, signed in January 1652, laid it down 'that no taxes, customs, imposts, loans, or excise shall be laid, nor levy made, on any the inhabitants of this island without their consent in a General Assembly', and 'that the government of this island be by a Governor, Council, and Assembly, according to the usual and ancient custom here; that the Governor be appointed by the States of England, . . . the Council by him chosen, and an Assembly by the free and voluntary election of the freeholders of the island in the several

<sup>1</sup> Exactly when the Assemblies began to sit as separate bodies is obscure, but it seems to have generally been not before the end of the proprietary period. Massachusetts was the first colony in North America to set up a separate elected house in 1644, while in Virginia there was but one chamber probably until 1680. See Moran, *Rise and Development of Bicameral System in America* (Johns Hopkins Studies, xiii, 1895).

<sup>2</sup> Ligon, *op. cit.*, pp. 100-1.

<sup>3</sup> Declaration of Feb. 1651, printed in Davis, *Cavaliers and Roundheads of Barbados*, p. 198.

<sup>4</sup> The Governor reported in 1653 that the Assembly would make 'this little limb of the Commonwealth into a free state'. *Cal. State Papers, Col. Series*, i. 408.



parishes'.<sup>1</sup> From that date until the Restoration proprietary control was eliminated.

Within a few years of their settlement the Leeward Islands developed institutions similar to those of Barbados, and they came under the general control of the Governor of Barbados.<sup>2</sup> There also for a short time the proprietors had to give way to the direct rule of the Commonwealth, but on the restoration of Charles II all the Lesser Antilles reverted for a few months to the proprietors. It is fortunately not necessary to delve here into the intricacies of the Carlisle Grant and the limited geographical knowledge of the early Stuarts; in 1661 the Crown assumed the proprietors' rights of government, and in 1663 took over also their property rights. Thus by 1663 the Lesser Antilles were under the direct rule of the Crown, with the payment of a 4½ per cent. export duty, which lasted until 1838, as the sole, but very irksome, reminder of the proprietary period.<sup>3</sup>

Jamaica at the time of its capture in 1655 had been occupied by the Spanish for one hundred and fifty years, but had never been really settled by them; thus, though in name a conquered colony of England, it was a settled colony in fact. The only legacy of importance left by the Spaniards was the nucleus of the Maroons, free wild negroes of the mountains, who continued to give much trouble down to the end of the eighteenth century.<sup>4</sup> The colony was probably fortunate in escaping an interlude of proprietary rule. For a few years after its capture it was kept under military control, and a vigorous, if misguided, policy of settlement was pushed forward. Twenty-five times the area of Barbados, Jamaica was confidently expected to grow into a colony twenty-five times as wealthy. But agricultural prosperity did not come quickly: the island was the head-quarters of the

<sup>1</sup> Printed in Schomburgk, pp. 280-3. The validity of this document, sometimes referred to as the 'Charter of Barbados', lapsed, of course, with the Restoration.

<sup>2</sup> For early federal institutions in the Leeward Islands see below, pp. 45-7.

<sup>3</sup> The best account of the Carlisle Grant dispute is that given in Beer, *Old Col. System*, i. 171-92.

<sup>4</sup> For an account of the Spanish occupation drawn from the archives at Seville see Cundall and Pietersz, *Jamaica under the Spaniards* (Jamaica, 1919). In 1611 there were only 1,510 people on the island, including 558 slaves.

buccaneering profession, of the allied illicit trade with the Spanish colonies, and of the logwood traffic from Central America and Yucatan; these occupations were more profitable than the hard routine of a plantation, with the supply of negroes short and with the Maroons ready for brigandage. It was not until after 1680 that agriculture took first place.<sup>1</sup>

Yet, in spite of the very troubled social conditions, the commission issued to Lord Windsor in 1661 as Governor permitted the convocation of an Assembly, the laws made by which, however, were only to be valid for two years without royal sanction. In 1663 the House of Assembly of Jamaica began its stormy career, which was to end two centuries later after the negro rising at Morant Bay in 1865. But the old representative system was not firmly established for another twenty years. The Assembly did not meet regularly at first, and almost at once it embroiled itself with the Council in a controversy so heated that a Councillor killed an Assemblyman.<sup>2</sup> There were disputes over the royal veto and other questions of legislative privilege and competence, but these were insignificant in comparison with the issue, fought also so bitterly in the continental colonies, of the grant of a permanent revenue to the Crown analogous to the  $4\frac{1}{2}$  per cent. export duty of the Lesser Antilles. This revenue was not desired merely so as to make the colony profitable, but chiefly to ensure that funds should be available for the payment of the public officers. Finally, the strife resulted in an attempt of the Privy Council of England to apply to Jamaica methods similar to those adopted in Ireland by Poynings' Law. In 1678 a ready-made body of laws was sent out with a peremptory injunction that the Assembly was to accept them without amendment; among the laws was a permanent revenue bill. This was an attempt not only to force on Jamaica English-made legislation, but to change the whole system of government by reducing the importance of the Assembly almost to nothing. Two Assemblies, naturally enough, rejected the bills, and the king thereupon inquired of his judges whether 'His Majesty had excluded himself from the power of establishing laws in Jamaica, it being a conquered country'.<sup>3</sup> The reply was never given, or else does

<sup>1</sup> Beer, *Old Col. System*, ii, ch. ii.

<sup>2</sup> Bridges, i. 263.

<sup>3</sup> Bryan Edwards, i. 312.



not appear to have been recorded, and it was left to Lord Mansfield to answer the question in the affirmative a hundred years later.<sup>1</sup> In 1681 the king wisely yielded the chief points at issue to the Assembly, and from that date the Assembly was in fact established as an essential part of the system of government, though not beyond dispute until 1728, when, after incessant wrangling, a permanent revenue of 8,000 pounds a year was granted to the Crown in return for the royal confirmation of the laws of the island.<sup>2</sup>

The Bahama Islands had no share in the rapid development of the plantations to the south. The first attempt at settlement was made about 1630 under authority of a grant from the Crown to Sir Robert Heath; that effort was ended in 1641 by the intervention of Spain and the deportation of the few English inhabitants.<sup>3</sup> Before the middle of the century some of the islands were visited by the sea-faring colonists of Bermuda, who came regularly in season to rake salt from the Bahama lagoons. In 1647 there was formed in London under the influence of these wanderers 'The Company of Adventurers for the plantation of the Islands of Eleutheria, formerly called Buhama, in America'.<sup>4</sup> Theological disputation was at its height in Bermuda at this time, and some of the harassed dissidents sought to create a refuge in the Bahamas. The members of the new company were constituted proprietors by an act of the Long Parliament in 1649, but their attempt at colonization does not appear to have met with any success, since in 1656 it was proposed to move the few settlers to Jamaica.<sup>5</sup> In 1670 Governor Sayle of Carolina wrote to his proprietors in London: 'The Bahama Islands, lyeing neare this coast, . . . being lately setled, and as yet in no patents, soe far as wee can understand, may be worthy of yor. Honors care to take notice of. For from thence wee can be sup-

<sup>1</sup> In *Campbell v. Hall*; see above, p. 20 n. 1.

<sup>2</sup> For this controversy see Bryan Edwards, i. 171-6, 263-325; Long, i. 15-16, 194-213. Beer, *Old Col. System*, i. 208-20, gives a modern account. Lynch, an admirable Governor, eased the situation in 1683 by securing a revenue bill of twenty-one years' duration.

<sup>3</sup> *The Bahama Islands*, pp. 421 ff. There is in the British Museum a 'Register of persons who went to the Bahamas in 1635'.

<sup>4</sup> The lengthy articles of association are printed in Malcolm, *Bahama Documents*. See also Lefroy, ii. 8-12.

<sup>5</sup> *Cal. State Papers, Col. Series*, i. 453.



plied with salt, & shipps goeing home without freight . . . may take in a loading of Brazellettoe wood.'<sup>1</sup> Shortly after this reached London, the Lords Proprietors of Carolina, in accordance with their Governor's suggestion and promptings from other quarters, secured from the Crown the third and final patent for the islands. This was made in terms which had become customary. It empowered the proprietors to make 'any lawes and Constitucons whatsoever . . . by and with the advice assent and approbacon of the Freemen of the said Islands', such laws to be 'consonant to reason and as neare as may be conveniently agreeable to the lawes and customes of this our Kingdome of England'.<sup>2</sup> Some settlers were installed, and in 1671 the proprietors instructed their Governor and Council to summon all freeholders in order to elect twenty of their number, 'who together with yr. self as Governor, our deputys as our representatives & ye 5 other Councillors as ye nobility for ye present are to be yr. Parliamt'.<sup>3</sup>

However admirable their intentions, the new proprietors did not succeed in setting up stable government in the Bahamas. One Governor is said to have been forcibly deported to Jamaica by the inhabitants, another to have been taken by the Spaniards and roasted on a spit, a third to have 'assumed Royal Prerogatives and arrogantly used the Royal Style', creating Peers, cherishing pirates, and keeping the Assembly under his guns, and a fourth to have been imprisoned by the unruly colonists and sent away in irons.<sup>4</sup> Finally, the islands became such a haunt of pirates that in 1717 the proprietors were constrained to relinquish to the Crown their duties of civil and military government over the 200 people who still remained, and Captain Woodes Rogers was sent to restore order, with a Commission which set forth that 'the said Islands are exposed to be plunder'd and ravag'd by Pirates and others and in danger of being lost from our Crown of Great Britain'.<sup>5</sup> The Assembly was discon-

<sup>1</sup> *Narratives of Early Carolina* (ed. Salley, New York, 1911), pp. 122-4. See also Beer, *Old Col. System*, ii. 85-9.

<sup>2</sup> Malcolm, op. cit.

<sup>3</sup> Ibid.

<sup>4</sup> Oldmixon, ii. 424-32.

<sup>5</sup> The preamble to the Commission ascribes the condition of the islands to 'the great neglect of the Proprietors', and states that 'most of the Inhabitants are fled from the same'. Malcolm, op. cit.

tinued and a nominated Council substituted ; yet it is significant of the current views of colonial government that the Royal Instructions to Rogers enjoin : ' You are not to take upon you to enact any Laws, till We shall have appointed an Assembly, and given you directions for your further Proceedings therein '.<sup>1</sup> The principle that Englishmen brought to a settled colony English law and the right of making their own local laws in a representative body was well established and almost universally observed. The suspension of the Assembly brought in a flood of addresses and petitions from the Council, Justices, Grand Juries, and Principal Inhabitants, asking for its restoration, and ascribing a wide range of evils, including even the ruinous condition of the fortifications, to its disappearance.<sup>2</sup> In 1728 an Order in Council and a new Commission gave the Governor authority to call an Assembly of twenty-four members. By this date, therefore, after an anarchic past, the government of the Bahamas was settled in the same form as in the other colonies.

The early history of the Bermuda Islands is in sharp contrast both with the lawlessness of the Bahamas and the quick prosperity of the Antilles. Though indentured white servants and negro slaves were soon introduced, plantation agriculture was an impossibility, and social conditions were far more akin to those of the continental colonies than to those of the West Indies. Before ever the first settlers had gone from England to the Leeward Islands and Barbados, Englishmen had come to live on this tiny group, thrusting its few square miles of porous rock above the Atlantic on the route from England to Virginia. The favourable report of a ship's crew, wrecked on the way to Virginia in 1609, led to the arrival of the first ship-load of colonists in 1612.<sup>3</sup> The Virginia Company claimed to be the proprietor, but at once it sold its rights to a subsidiary company, which secured a Crown grant in 1615 as the ' Company of the City of London for the Plantation of the Somer Islands ' (known as the *Bermuda Company*), with the usual powers of government.<sup>4</sup> The Company's Commission and Instructions to

<sup>1</sup> Malcolm, *op. cit.*

<sup>2</sup> Seven such petitions are printed by Malcolm.

<sup>3</sup> Sir George Somers was in command of the wrecked vessel, hence the official but little-used designation of ' The Bermudas or Somers Islands '.

<sup>4</sup> Lefroy's *Memorials of Bermuda* contains a compendious reprint of early accounts and official documents. Much trouble was taken over an elaborate



its Governor in 1616 provided for the creation of a Council, in part directly elected and in part chosen by the two clergymen and the Governor.

'Upon the first of August (1620), according to the Companies instructions from England, began the generall assembly at the towne of Saint George, which was the first these Iles ever had; consisting as is said, of the Governor, Councell, Bailiffes, and Burgesses, and a Secretarie to whom all bills were presented and by him openly read in the house, also a clerke to record the acts, being thirty-two in all; fifteene of which being sent into England, were by a generall consent received and enacted.'<sup>1</sup>

So began the history of the oldest representative body in the overseas dominions of the British Crown as they now are; on the mainland Virginia had anticipated Bermuda in the creation of an Assembly by a single year.

The Bermuda Company proved a hard master to the settlers; attempts to leave the colony were punished severely, in one instance even by hanging;<sup>2</sup> and the meticulous arrangement of their affairs by a board in London, separated from the islands by a voyage frequently of months, was inevitably a source of irritation. The articles of the Company had an appearance of liberality; it was laid down that in every second year the Governor should summon an Assembly, that all taxes were to be 'levied and employed as the said Assembly shall appoint', and that the Assembly should make 'Lawes and Orders for the particular necessities and occasions of those Ilands'.<sup>3</sup> The mainspring of the government, however, remained in London; trade was regulated most narrowly in the Company's sole interest; the laws made in the islands required the Company's confirmation, and were frequently disallowed; the Company itself fashioned laws in London which it sent to the Governor to enforce; little independence was allowed to the elected representatives, as they did not sit in a separate chamber, but below the Governor experiment in the division of the settlers into 'tribes' and 'families', with voluminous regulations for the partition of the soil. The instructions to the first Governors go into immense detail, and provide for a government of a most paternal nature. See also W. R. Scott, *Joint Stock Companies to 1720* (1910), ii. 259-97, for the Bermuda Company.

<sup>1</sup> Smith's *History of Virginia*, in *Works* (ed. Arber, 1910), ii. 674.

<sup>2</sup> Lefroy, i. 145-6.

<sup>3</sup> From Articles of 29 May 1622, in Lefroy, i. 200-28.



and Council.<sup>1</sup> Before long Company and colonists were at loggerheads. After much skirmishing, in 1673 the elected section of the legislature dared to sit apart from the Governor and Council under their own Speaker; for this temerity they were dismissed, and for ten years no elections were held. The suspension of the Assembly brought a mass of petitions and complaints, just as it did later in the Bahamas, and in 1683 it was reinstated, to make its final attack on the Company. In 1684 the Company was dissolved, and Bermuda passed to the Crown.<sup>2</sup>

### § 3. *The Characteristics of the Old Representative System*

A summary account has been given of the establishment of a uniform system of government under the direct control of the Crown, in the British West Indian possessions as they were before 1763, and in Bermuda. It is now necessary to examine in greater detail the working of this system when fully established in the eighteenth century. The proprietary period, through which all the colonies, except Jamaica, which have so far been discussed, passed before coming directly under the Crown, need not be further considered. In the West Indies this period was brief, briefer than in all but one or two of the North American colonies, and its conclusion was marked by no sudden change in the course of constitutional development. The West Indies were in the centre of the colonial empire during the earlier years of the mercantile system, while the North American colonies, or at any rate those of them in which tropical or semi-tropical products could not be grown, were on the circumference. They were further the scene of incessant conflict between the great European powers. In consequence it was natural that imperial rule should soon be assumed over the colonies around which imperial policy was constructed.

In all the royal colonies, West Indian and North American, the government was based on one model with local variations, and this model, whatever the original intentions of the English

<sup>1</sup> In 1625 one Parker was prosecuted for sedition for trying to divide the legislature into an upper and lower chamber. Lefroy, i. 368-72.

<sup>2</sup> The Crown tried until 1688 to carry on the exclusive trading system of the Company, to the great disgust of the inhabitants. Beer, *Old Col. System*, ii. 97-101.

Government may have been, was avowedly that of the constitution of England. Long, the eighteenth-century historian of Jamaica, describes the island legislature in terms which may be extended to all the colonies : It is composed of three estates, of which the governor (as representing the king) is head. Having no order of nobility here the place of an house of peers is supplied by a council of twelve gentlemen appointed by the king ; which, in our system of legislature, forms the upper house. The lower house is composed (as in Britain) of the representatives of the people, elected by the freeholders.'<sup>1</sup> There were minor differences in practice among the various colonies, especially as regards the position of the Council, but there was nevertheless a remarkable uniformity of constitutional usage in them all, from Jamaica down to the smallest island.<sup>2</sup>

At the head was the Governor, deriving his authority from his commission and instructions, and from the vaguely defined delegation of the royal prerogative to him as agent of the king. His powers at first were very great, but they were gradually curbed, on the one hand by their more exact definition by the Crown, and on the other by the continual aggression of the Assembly. His duties cannot be enumerated exactly, but they fall into two classes, since he occupied a dual position as representative of the Crown and as chief of the local government. In the first capacity he had to uphold imperial interests, as defined in his instructions, and to see to the execution of imperial policy ; in the second, to supervise all branches of the local administration. When local and imperial interests clashed, as they did almost without intermission, the Governor had to bear the burden of the struggle, and his position was such that it was hardly possible for him to avoid trouble either with the colonists or with the home Government. He was continually being faced with the alternative either of breaking his instructions or of falling out with the Assembly, on the support of

<sup>1</sup> Long, i. 10.

<sup>2</sup> This judgement is based on such printed authorities as are generally accessible. It may have to be modified slightly when the West Indian papers in the Record Office have been fully examined ; this examination is, I believe, now being made at the instigation of the Carnegie Institute. It is clear, at any rate, that the West Indian governments were far more uniform than the North American.



which the funds necessary for the execution of his instructions often depended. He had to serve two masters, and their contradictory commands placed him in a perpetual dilemma.<sup>1</sup>

For the successful administration of such a system much ability and tact were required, and at first the Governors were often able and independent men, such as the two Lord Willoughbys in the Lesser Antilles, Sir William Stapleton in the Leeward Islands, and Colonel Modyford and Sir Thomas Lynch in Jamaica. These were men who were making their careers in the new world, to whom a governorship meant more than an opportunity for display and a cure for broken fortunes. After the death of Charles II a change took place, and 'for many generations the Governors were for the most part English place-men, who looked upon their colony as a dull resting-place to be tolerated until a better berth might be found at home'.<sup>2</sup> Bryan Edwards called it 'a melancholy truth that party merit and connections are commonly the most forcible recommendations with which a candidate for a distant government can present himself'.<sup>3</sup> Long's chapter 'On the Governor' is a vigorous record of venality, greed, and extortion.<sup>4</sup> On the whole, and especially during the first half of the eighteenth century, the West Indian Governors attained an unusual degree of incompetence. In 1710 Governor Parke of the Leeward Islands so aroused local feeling by his despotic conduct that the people of Antigua rose against him, and killed him after a regular battle around Government House; the home Government, conscious of the defects of its late representative, never tried to bring his assailants to justice. His successor, Douglas, was in 1716 imprisoned in England by order of the King's Bench and fined £500 for his mal-administration.<sup>5</sup> These may be extreme cases, and the people of Antigua may have been unusually unruly, but it is clear that corruption had penetrated so far through the whole structure of executive government

<sup>1</sup> For an elaborate account of the Governor's position in the North American colonies, much of which applies to the West Indies, see E. B. Greene, *The Provincial Governor* (Cambridge, U.S.A., 1898).

<sup>2</sup> Egerton, pp. 75-6.

<sup>3</sup> Long, i. 26-43.

<sup>4</sup> Bryan Edwards, ii. 320.

<sup>5</sup> Oliver, *Antigua*, i. lxxxix; Bryan Edwards, i. 440-5; Oldmixon, ii. 205-20.



that it was regarded as a natural, and almost inevitable, phenomenon.

This is seen even more clearly in the case of the other principal executive officers. The Governor had at least to reside in the colony for a part of the term of his command, while even this was not required of many of the chief officials. The purchase of a colonial patent-office was one of the simplest ways in which a politician's friend in England could secure an income without any unseemly effort. Long wrote in 1774 that 'the most lucrative offices in this island (the governor's excepted) are granted by the Crown to persons residing in England, and by these patentees are farmed or rented to deputies and sub-deputies acting in Jamaica, who remit annually several thousand pounds to their principals'; further, 'the natives in our colonies, as if proscribed for some defect of ability or good-morals, cannot, without the utmost difficulty, creep into any lucrative employment'.<sup>1</sup> As a method of political manipulation in England and as a way in which to patronize the arts, there may be something to be said for this system, but as a part of the scheme of colonial government it was damnable. The whole, or almost the whole, of the emoluments of office in the colonies came from fees, and these the deputy had to exact on an extortionate scale in order to remit to his principal the rewards of his inertia.<sup>2</sup> The system of patent-offices was not abolished until the nineteenth century was well advanced, and it was not by any means confined to the colonies which came under the old representative system. In British Guiana in 1824 a Colonial Secretary who had never been in the colony was drawing £13,000 a year in fees and some £200 in allowances, out of which he paid two deputies, and a Provost Marshal, also an absentee, was in receipt of fees amounting to £6,000 a year.<sup>3</sup> In Bermuda in 1844 Thomas Moore, the poet, was superseded in the office of Registrar of the Court of Admiralty, on the not unreasonable ground of continued absence, since he had not been in the colony for forty years.<sup>4</sup>

The Council was generally thoroughly under the control of

<sup>1</sup> Long, i. 79-80.

<sup>2</sup> Long, i. 79-87, gives many examples from Jamaica. Even the Chief Justice received only £120 salary.

<sup>3</sup> Rodway, ii. 280.

<sup>4</sup> W. F. Williams, *An Account of the Bermudas* (1848), p. 111 n.

the Governor. Though he did not appoint the members himself, he was able to keep the Crown appointments under his influence, and by use of his power of suspension to prevent any embarrassing show of independence. It was intended that the Councillors should be the most substantial men in the colony; theirs was a position of dignity and security, since they held office during pleasure, and no property qualification was required of them. In size the Councils varied with the size of the colony, ranging from half a dozen in the small islands to eighteen or twenty. In time it became customary in most, though not in all, of the colonies to include in the Council the chief officials. The Council served a double function. It was both the Privy or Executive Council of the Governor, the advice and assent of which he was bound to secure before he could perform certain of his duties, and the Upper Chamber of the colonial legislature.<sup>1</sup> Whether it was originally intended that the Council should form a branch of the legislature distinct from the Governor was disputed, but it is certain that, in all the islands, before long the Councils had won recognition as the ineffective local imitation of the House of Lords. The Council's legislative powers, however, were gradually limited to the profit of the Assembly; its claim to amend financial measures had to be renounced, and in time in most of the islands the Council seems to have lost the right to initiate any legislation whatsoever. On the whole the Council was a conservative body, dependent on the Governor and supporting him against the Assembly, though not infrequently Governors succeeded in uniting both Council and Assembly in opposition to themselves.

The House of Assembly was the most characteristic feature of the system. It was elected by the white freeholders, generally with a minimum qualification for the franchise of about £10 freehold per annum, and for membership of about £300 or ownership of a specified acreage.<sup>2</sup> The parishes were the electoral districts, each returning at least two members. The total number of members varied from a dozen or so in the smaller

<sup>1</sup> The Governor, of course, sat in Council when it was acting as his privy council, but he was in time excluded from it when it was considering legislation. In Barbados he continued to sit always until well into the eighteenth century, and in Bermuda until 1797.

<sup>2</sup> For examples see Bryan Edwards, i. 221-2, 431; Long, i. 57; Hall, *Laws of Barbados* (1764), Act of 1721.



islands to forty and more in Jamaica. The low freehold qualifications meant that all white landowners could vote, but none except landowners, and this gave rise to complaints among the merchants that they were discriminated against in legislation, especially in laws concerning the payment of debt.<sup>1</sup> The Assembly in fact soon came to represent only the planting and slave-owning interests. Contested elections were few, as matters were usually arranged beforehand, but when they occurred the contests were often bitter.<sup>2</sup> There was no uniformity as regards the term for which the representatives were chosen: Barbados in 1660 instituted annual elections and still clings to them after more than two and a half centuries; Jamaica observed the Septennial Act, at first by custom and later by statute; in the Bahamas a Septennial Act was passed in 1795 after an Assembly had remained in office for nine years.

In procedure the practice of the House of Commons was followed in general outline, and sometimes in minute and ridiculous detail, with the ominous, though unavoidable, exception that money votes were never restricted to the initiation of officers of the Crown. In most of the Assemblies the privileges of Parliament were claimed from the Governor by the Speaker on the opening of every session, and these privileges were stridently, if not always successfully, upheld.<sup>3</sup>

At first the Assembly was intended to play a minor part; it was to have, it is true, special power over taxation, but it was to be kept well under control by the Governor and Council, and was to have no right to meddle in executive matters. The force of English precedent, however, proved too strong; the Assembly considered itself the local House of Commons, and gradually won a large measure of recognition for its claim. Yet

<sup>1</sup> Cf. Higham, pp. 157-9, 222; Beer, *Old Col. System*, i. 347-8, 352 n. 6.

<sup>2</sup> The Governor of Barbados wrote to the Board of Trade in 1730: 'They (i.e. the planters) would make the world believe that they are almost reduced to want, tho' I am Assured that there was 6000 pounds Spent lately in two of the Parishes where the Elections were Contested.' Quoted in Pitman, p. 250.

<sup>3</sup> Some turbulence seems to be implied by the provision in the Standing Orders of the Antigua Assembly in 1700 of a fine of a piece of eight for interruption, and of three shillings for swearing, smoking, or failing to address the Speaker (Oliver, i. lxxii). In Barbados the privileges of Parliament were not formally claimed until 1766 (Schomburgk, p. 331).

the relationship between executive and legislature never followed the lines of evolution in Great Britain, but remained fixed in the seventeenth-century model; and whatever control the Assembly secured over the executive was exercised indirectly and below the surface. The power of refusing supplies was the weapon which the Assembly employed against the Governor and Council. It came to possess financial rights analogous to those of the House of Commons, subject to the payment of whatever permanent revenue the Crown had succeeded in extracting. Local money bills were never passed for more than one year, thus ensuring regular meetings, and limiting the Governor's prerogative of summons and prorogation. In appropriation acts expenditure was so minutely detailed as to leave little discretion to the executive. Additional and irrelevant proposals were 'tacked' to necessary supply bills, in order to force their acceptance by Governor and Council. No proposal for the expenditure of public money could be made except in the Assembly, though there the executive might not have a single spokesman or supporter.

No constitutional system can be static, and in the old representative system the chief development was this steady aggression of the Assembly in the region of finance. Thus before 1670 the Assembly of Barbados had acquired the right of appointing the colonial treasurer, in this way invading directly the province of the executive. In 1710 the Council disputed the power of the Assembly in this respect, and sought to force the acceptance of its own nominee. The result well illustrates the power of the Assembly; it went on strike, and in consequence 'no laws have been passed, no taxes raised, no Excise Bill, for near this two years, because no Treasurer to receive the Taxes, Excise, &c.' <sup>1</sup> The question was finally referred to Queen Anne, and she pronounced in favour of the Assembly, which still retains its privilege in this matter.

It was in Jamaica that the most thorough and ingenious system of executive control was devised by the Assembly, and the example of Jamaica was followed in many other islands. Three months was a usual period for which to vote supplies, so that

<sup>1</sup> From a letter quoted in Davis, *Cavaliers and Roundheads of Barbados*, p. 159.



the power of the purse could be used very rapidly if the Governor misbehaved.<sup>1</sup> Any interference of the Council, even by way of mild suggestion, with money votes was furiously resisted; for example, when in 1791 the Council very reasonably objected to the inclusion in an ordinary money bill of a clause granting aid to the French planters in Haiti against their revolted slaves, the Assembly denounced their objection as 'officious, indecent, assuming, and irregular'.<sup>2</sup> But short-period legislation, 'portmanteau' money bills, and strident protests, were not the only devices of the Jamaica legislators. By a mixture of act and custom the practice grew up of making grants of supply, not to the Crown or the Governor, but to Commissioners of Public Accounts, who were *ex officio* the members of the Assembly sitting under another name. As such they continued to act during prorogation and even after dissolution, and in fact performed many of the duties of responsible ministers without any definition or open acknowledgement of their responsibility. Henry Taylor of the Colonial Office, in a minute written for the Cabinet in 1839, summed up the achievements of the Assembly:

'The tax levied on the property of the colony, which is chiefly the property of absentees, is paid into the Treasury; the forty-four vote it away as an Assembly; the same forty-four or any five of them give effect to the expenditure by making contracts and issuing orders, warrants, or resolutions; and the same forty-four, or a quorum of them, act as auditors.'<sup>3</sup>

A long road had been travelled since the proposal of 1678 to limit the Jamaica Assembly to the discussion of measures laid before it by the Government.

There were some powers, however, which the Assembly was never able to get into its hands. It could not appoint or dismiss any public officer, and the weapon of supply was here of no great use, because of the payment of officials almost wholly by fees. Many critics, conscious of the abuses encouraged by this method of remuneration, looked enviously at the French system whereby colonial officials were paid fixed salaries granted by the Crown. The French Government, however, had not handed over control of local revenues to an elected assembly;

<sup>1</sup> Bridges, i. 340.

<sup>2</sup> Gardner, p. 222.

<sup>3</sup> *Autobiography of Sir Henry Taylor*, i. 253.

and in the English islands payment by fee, however gross the abuses, was rendered almost necessary by this abdication. If officials had been paid by salaries at the mercy of the Assembly, the Assembly would have been able sooner or later to bring them under its control, and thus to attain to some sort of responsible government. That solution was left for a later age to discover, and it would not have been possible in the eighteenth-century empire without discarding the mercantile ideas on which that empire was based, especially in the tropical colonies dear to the heart of the mercantilist. So long as an imperial policy was maintained which seemed to the Assemblies to conflict with local interests, the achievement of complete self-government was impossible without a revolution.

The increased importance of the Assembly, therefore, did not result in anything resembling a responsible cabinet. The Governor had to carry out his instructions as best he could, frequently by a series of bargains. He retained full responsibility for conducting the administration, while the power had in large measure passed out of his hands. Under such a system of divided control, the only Governor to avoid falling foul of his Assembly would have been one who followed its every whim, and finally the emergence of the great issue of the abolition of slavery destroyed even this possibility of peace. Neither Governor nor Assembly was always in the right, but the form of government was so devised that it would not have worked smoothly if Governors and Assemblymen had all been the most upright and disinterested of mankind.

In Jamaica its impracticability is seen most clearly. Between 1702 and 1711 the Assembly was dissolved eight times; in 1755 'three Assemblies met, deliberated, and were dissolved for disobedience within the short space of three months'; in 1765 there were three dissolutions in a year; and it was not until 1816 that any Assembly lasted for its full term of seven years.<sup>1</sup> The controversies were perhaps not so bitter in Barbados as in Jamaica, though there too the political strife was incessant. In all the islands, large and small, the machinery of government groaned and grated, and deadlock succeeded deadlock. It was only the absolute necessity of temporary reconciliations,

<sup>1</sup> Bridges, i. 339-40, ii. 85, 166, 322.



caused by the continual recurrence of danger from foreign wars and domestic uprisings of slaves, and by the havoc of earthquake and hurricane, that made it move at all. The dependence of the colonies on assistance from outside for their safety, both internal and external, and the presence of foreign nations in the Caribbean which were quite prepared to take over the British colonies if they could get the opportunity, restrained the Assemblies from going to the lengths of their North American counterparts. Yet they went far enough to condemn utterly the existing constitutional system. The historian of the British Army bitterly sums up their effect on imperial defence :

' There was not one of these communities, not even the tiniest of the Antilles, but possessed its little legislature on the English model, and consequently not one but enjoyed facilities for the excessive indulgence of local feeling, local faction, and local folly, to the obstruction of all broad measures of Imperial policy. . . . Never yet had the Leeward Islands suffered from a foreign foe but Barbados had rejoiced over the weakening of a commercial rival.' <sup>1</sup>

Nevertheless the same form of government was set up in the islands of Grenada, Dominica, St. Vincent, and Tobago, when in 1763 they passed under the British flag by the Peace of Paris. There was some preliminary hesitation. Grenada had a large French population, and there were some French in the other islands, though these had previously been in name neutral and unsettled. In these circumstances the Lords of Trade reported that the best form of government would be ' a Governor and

<sup>1</sup> Fortescue, iii. 3-4. During the American Revolution Bermuda and the Bahamas were in revolt, and for a time the loyalty of the other islands was seriously open to doubt. Their dependence on British naval power, however, prevented too direct a break, but generally speaking they were as disloyal as they dared. Compare Fortescue's comment on the attitude of Jamaica in 1781 : ' The safety of Jamaica was seriously endangered by the behaviour of the Assembly, which, though always clamouring for military stores, refused to make any provision for housing them, and would not vote a penny even for repairs of the fortifications. Herein there was treachery as well as faction, with greed of gain, as usual, at the root of both: . . . In fact in Jamaica, as in the rest of the islands, the military measure which was most sorely needed was the hanging of half a dozen members of Assembly ' (iii. 350). During the campaigns of 1793-1804 in the West Indies there seems to have been little actual treachery, but the parochialism of the Assemblies put great obstacles in the way of the military commanders.

Council, under Your Majesty's immediate Appointment'. But in a few months they changed their minds, and advised 'that an immediate and public Declaration should be made of the intended permanent Constitution, and that the power of calling Assemblies should be inserted in the first Commissions' issued to the Governors of all the new American colonies. This alteration was brought about in the main by consideration of the position of Canada, and it was designed to give 'Confidence and Encouragement to such persons as are inclined to become settlers in the new Colonies'. The recommendation resulted in the issue of the well-known Proclamation of 7th October 1763, which announced that the Governors of the four new colonial Provinces (Quebec, East and West Florida, and Grenada) had been instructed to call Assemblies 'in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government', as soon as internal conditions permitted.<sup>1</sup> The introduction of the representative system in the four West Indian islands, in accordance with the Proclamation, was followed by the usual results. In Grenada particularly the disputes between Governor and Assembly were bitter, in part because the home Government tried to introduce a greater measure of religious toleration than the English settlers were prepared to accept.<sup>2</sup>

It was not until the beginning of the nineteenth century that any new form of colonial government was adopted in the West Indies, but the change was thorough when it came. 'Though in each particular case there were good grounds justifying it,' writes Professor Egerton, 'it is still significant that, whereas until the commencement of the nineteenth century the almost invariable practice in the case of the British Colonies was to establish a local legislature, consisting of three estates, in no one of the sixteen colonies acquired by cession or occupation in the beginning of the nineteenth century was this system introduced.'<sup>3</sup> Of the acquisitions in the West Indies during the

<sup>1</sup> Extracts from documents in Shortt and Doughty, *Documents relating to the Constitutional History of Canada* (2nd edition, 1918), pp. 145, 149, 156, 165.

<sup>2</sup> The Peace of Paris did not expressly guarantee freedom of worship for Roman Catholics in these islands, as it did in Canada.

<sup>3</sup> *Brit. Col. Policy*, p. 260. The statement is not technically accurate as regards



Napoleonic wars, in Trinidad and St. Lucia there have never been elected representatives in the legislatures, and in British Guiana the old Dutch institutions were continued under the terms of capitulation.<sup>1</sup>

#### § 4. *Social and Economic Changes*<sup>2</sup>

By the time that the emancipation of the slaves became a vital issue, the West Indian colonies, although the outward form of their governments had not changed, were very different communities from those which they had been when first representative institutions were established. The story of the change is mainly the story of the cultivation of sugar. This required above all much capital, a large labour supply, and an elaborate organization. The juice of the sugar-cane has to be extracted almost immediately after the cane has been cut in order to prevent fermentation, and consequently, failing a system of rapid transportation from cane-field to central mill, every sugar estate must be both a farm and a factory. It is said that the average number of slaves on the sugar estates in Jamaica during the latter part of the eighteenth century was 180, and that £30,000 was the minimum capital required to make sugar cultivation a success.

The gradual monopoly which the growth of sugar acquired over that of all other products in the West Indies marked a change from a numerous Anglo-Saxon population, in part living on small estates and engaged in mixed cultivation, to a system of great plantations, worked by very large numbers

Tobago; this island had been British from 1763 to 1783, and in 1768 an Assembly had been set up. In 1783 it was ceded to France, but the local government remained the same, and was continued on its final capture by Great Britain in 1803. Cf. Woodcock, *Tobago*, pp. 41, 58, 69-75.

<sup>1</sup> Yet so lately as 1852, when the Bay Islands of Honduras were made a short-lived and forgotten colony, the Royal Warrant creating the colony provided for the summoning of an elected Assembly of twelve landowners. Royal Warrant printed in P. P. 1856, vol. xlv.

<sup>2</sup> A fairly consecutive account (except for the years 1688 to 1700) of the economic history of the West Indies to 1765, based on recent researches, is to be found in the following books: G. L. Beer, *The Origins of the British Colonial System, 1578-1660*; *The Old Colonial System, 1660-1688*; *British Colonial Policy, 1754-1765*; and F. W. Pitman, *The Development of the British West Indies, 1700-1763*.

of slaves under the direction of a few white men. The small farmer was forced out ; so early as 1663 Barbados had a surplus of white people which found an outlet in Jamaica and in Carolina. By 1720 several hundred families had left the island in debt, and had moved to Carolina and Pennsylvania, where they were said to have become ' some of the Toppingest Inhabitants '.<sup>1</sup> So soon as the virgin fertility of the soil began to be exhausted, large-scale plantation-agriculture gradually drove out all competitors. The undeveloped resources of Jamaica enabled the island to flourish after first Barbados and then the Leeward Islands had declined, and Jamaica in its turn was eclipsed by Haiti before the prosperity of the latter was cut abruptly short by its domestic cataclysm during the French Revolution.<sup>2</sup>

Thus society was divided into rich white planters, merchants, and paid white employees, on the one hand, and slaves on the other. Soon the more wealthy planters began very generally to absent themselves from their estates, and, leaving them in the care of attorneys, to live in England. Modyford, as far back as 1647, had found on arriving at Barbados a planter ' desirous to suck in some of the sweet ayre of England ', from whom he purchased a half interest in his estate.<sup>3</sup> From Jamaica in 1702 Admiral Benbow complained to the Secretary of State that ' the Government of this Island now is entirely in the hands of Planters who mind nothing but getting Estates and when so to goe off, having no regard to the King's Interest or Subjects. . . . They doe whatever the desire of Gain leads them to without any regard to the Laws of our Country '.<sup>4</sup>

In England these absentee proprietors formed a West Indian aristocracy of much wealth and great political power. Together with the merchants trading to the Caribbean and the agents appointed by the colonial legislatures, they represented the interests of the colonies in London, though the representatives

<sup>1</sup> Letter to Board of Trade, in Pitman, p. 92. See *ibid.*, chs. iv and v, and Beer, *Old Col. System*, ii, chs. i and ii, for a full account of the change.

<sup>2</sup> Contemporary accounts of the decline in prosperity must not be taken too literally ; it was relative, not absolute, and to-day the West Indies in their obscure corner of the world are producing more than they did in the heyday of their greatness.

<sup>3</sup> Ligon, *op. cit.*, p. 22.

<sup>4</sup> Quoted in Pitman, p. 21.



were by no means always in harmony among themselves.<sup>1</sup> One of the chief reasons, indeed, for the appointment of paid agents by the colonies was to combat the machinations in England of the merchants and the owners of undeveloped estates who kept, as a Governor of Jamaica wrote in 1719, 'vast Tracts of uncultivated Lands . . . shut up under the Notion of Property'.<sup>2</sup> The West Indian lobby in the House of Commons was strong enough in 1733 to secure by the 'Molasses Act' a monopoly of the supply of tropical produce to the continental colonies, a monopoly, however, which could never be enforced. In 1739 they even succeeded in having the principles of the mercantile system departed from in their favour by the passage of the 'Sugar Act', which allowed direct trade with Europe.<sup>3</sup> It was largely due to their influence that in 1763 most of her captured West Indian possessions were returned to France, for they did not want too many competitors in the home market. By the selfish enforcement in their own interests of the mercantile system, the absentee landlords and merchant princes of the West Indies contributed in no small measure to the irritation which culminated in the American Revolution. In most directions, indeed, in which their political power was employed the results were evil.<sup>4</sup> 'Interest with you we have but little,' wrote Benjamin Franklin in 1764; 'the West Indians vastly outweigh us of the Northern Colonies.'<sup>5</sup>

The West Indies were far more closely bound to the mother country than were the colonies on the mainland, and this was due in part to the existence of the strong West Indian group in London, and in part to their exposed position. The main reason, however, lay in the nature of the colonial policy of the

<sup>1</sup> See an article by Miss L. Penson in *Eng. Hist. Review* for July 1921, 'The London West Indian Interest in the Eighteenth Century'.

<sup>2</sup> Pitman, p. 112.

<sup>3</sup> Pitman, chs. viii, xi, and xii.

<sup>4</sup> Fortescue, in writing of a lamentable diversion of British troops against Demerara at the instigation of the London interests in 1795, comments: 'Such considerations were not to be weighed in the balance against the sacred property of the West India Committee, that blind, selfish, and rapacious body which—I write not in haste nor without investigation and experience—has for two centuries and a half been the curse of the West Indies' (vol. iv. 432). He gives many instances (vols. iii to viii) of the baneful influence of the London interests on the Government during the Revolutionary and Napoleonic wars.

<sup>5</sup> Pitman, p. 334 n.

time, for the Caribbean colonies were the special favourites of the mercantile system, as the source of the new tropical necessities of life which in no way competed with English products. By reason of this virtue they were sharply distinguished from the colonies of the temperate zone, those troublesome communities which the most rigorous of legislative penalties could not prevent from competing in the preserves of British trade. The terrible casualties to British troops in the long succession of plague-ridden campaigns in the West Indies are clear evidence of the high value of the islands in the eyes of the home Government ; an authoritative estimate places the losses between 1794 and 1799 alone at no less than 100,000 men, half dead and half incapacitated for further service.<sup>1</sup>

The economic history of the islands in the eighteenth century is the tale of a steady effort to force trade into unnatural channels from which it was continually overflowing, for no legal penalties sufficed to keep the mercantile system, intact in law, at work in practice. Customs officers in the colonies who did not wink at, or even encourage and direct, evasions were very much the exception. To the West Indian interests in England dividends were the chief concern, and their dividends seemed to them to depend on the maintenance of their monopoly in the markets of Great Britain and America, and on keeping up the price of sugar by restricting its supply. In the islands the restrictions on trade met at first with much opposition, so long as supremacy was maintained over all competitors in the production of sugar. As time went on, and the fertility of the islands declined so that foreign competition became a serious menace, the same restrictions, when relaxed by a few wholesome evasions, benefited increasingly the planters by providing them with a sheltered and capacious market in England ; and when they were finally done away with in the middle of the nineteenth century the abolition was bitterly complained against as ruinous.<sup>2</sup>

<sup>1</sup> Fortescue, iv. 565.

<sup>2</sup> But after the American Revolution the refusal of the home Government to allow trade with America for several years brought much hardship, despite abolition of colonial duties and the occasional permission given to import in foreign bottoms. Bermuda was very hard hit, as it was not self-supporting, and the American colonies were the source of its supplies.



The course followed by all the British islands was similar in character, but not uniform in time. The first violent prosperity gave way to a more sober period when care and capital were necessary, and this in turn yielded to a season of decline marked by frequent crises, during which highly capitalized production in the form of great slave estates ousted all competitors.<sup>1</sup> Sugar was the only product of any importance, and anything which affected adversely either its production or its markets brought serious and speedy reactions on every one in the islands. Each stage of development left its marks on the composition of society, and all the colonies were in the last stage when the emancipation crisis arose.

Most of the great planters had gone to breathe 'the sweet ayre of England', and had never returned; a few, of course, remained, and kept up the traditional lavishness of West Indian hospitality; but the bulk of the capital in the islands—slaves, land, and sugar-works—was owned abroad. The white society was thus composed of the few remnants of the large estate owners, professional men and merchants, civil servants and paid estate agents, attorneys and overseers, together with a large number of 'book-keepers' who kept no books, but were the drivers of the slaves on the plantations.<sup>2</sup> Free coloured and negro inhabitants were in an anomalous position in the middle, able to own property but with few civil rights. The vast majority of the population was composed of negro slaves. The Assemblies were only representative of the small and diminishing white land-owning class, that is, of people born and bred to regard slavery as their very life. It is easy to accuse them of ignorant prejudice, short-sightedness, of all vices one can lay tongue to, yet their attitude was natural, for their livelihood was secured by slaves, and even so none too surely secured in those days of decline; and behind all lay the terrible apprehension of a negro rising and a race war, an apprehension quickened to a vivid

<sup>1</sup> This only applies to the sugar colonies; the Bahamas and Bermuda were never agriculturally prosperous, and their only importance at the time was as centres of trade and defence.

<sup>2</sup> For a vivid description of the monotony of a book-keeper's life—'a sort of voluntary slave'—see *An Account of Jamaica*, by a Gentleman long resident in the West Indies (Peter Marsden), 1808, pp. 132 ff.

forecast of a horrid reality by the fate of their French neighbours in Haiti.<sup>1</sup>

<sup>1</sup> For the evil effects of absentee ownership on the slaves see M. G. Lewis, *Journal of a West Indian Proprietor* (1834). Lewis was himself an absentee, and he comments: 'I must acknowledge, from my own sad experience, since my arrival, that unless a West Indian proprietor occasionally visit his estates himself, it is utterly impossible for him to be *certain* that his deputed authority is not abused, however good may be his intentions, and however vigilant his anxiety' (written in Jamaica in 1817). After his first visit to his estates, Lewis added a codicil to his will making inheritance of his plantations conditional on a three months' visit by the heir each three years. Yet he believed that slavery could not be abolished safely. His journal gives a brilliant picture of society in Jamaica during the last days of slavery. This it is interesting to compare with the lively and wholly favourable account of life in Antigua a few years before, in the *Journal of a Lady of Quality* (ed. Andrews, Yale, 1921).



### III

## THE OLD REPRESENTATIVE SYSTEM FROM THE ABOLITION OF SLAVERY TO 1865

### § 1. *Emancipation*

JUST as in Canada the Rebellion of 1837 threw into vivid relief all the defects of the old colonial constitution, so in the West Indies the slavery issue created such a series of constitutional deadlocks as to make a fundamental alteration in the system of government seem inevitable: yet no Lord Durham came to the West Indies to prescribe for the disease. It is fortunately not necessary to rake over carefully the ashes of that bygone controversy. As a practical method of government the system was already condemned by experience; and emancipation, not only by the political chaos it caused, but even more by the new social conditions it created, made the failure so apparent that the surprising thing is that the old constitutions were not there and then remodelled, instead of thirty years later, and still more that any of them have survived to the present day. Indeed, if the Whigs had had their way in Parliament, the Assembly of Jamaica at least would have disappeared, temporarily at any rate; but the Tories so staunchly upheld the glories of British liberty and colonial self-government that they gave Lord Melbourne an uncomfortable time of it, Queen Victoria the first political crisis of her reign, and Jamaica thirty years more of misgovernment.

The arguments of the Assemblies against the Emancipation Act and its preliminary measures fall into two main divisions. First there were the constitutional claims, that complete local legislative autonomy had been irrevocably granted to the colonies by the Crown, to the exclusion even of the powers of Parliament, that the existence of slavery and the treatment of the slaves were matters for local concern and regulation alone in which the British Government had no right to intervene, and that therefore the

Registration Act of 1815 and the Emancipation Act of 1833 were *ultra vires*, null and void. Against the abolition of the slave-trade in 1807 no such arguments could be advanced, but it was another matter when Parliament proceeded to legislate within the sphere of the admitted territorial jurisdiction of the local Assemblies. The planters carefully stated their case in a form similar to the claims of the American colonies during the Revolution, and sought in this way to represent the abolition of slavery by act of Parliament as a tyrannous measure. Their arguments are completely answered in a passage from Sir Samuel Romilly's diary :

' I own that I feel a great deal of indignation when I hear the colonists endeavouring to revive the controversy which preceded the American War. . . . The real purpose for which these noble doctrines of the British Constitution are appealed to by the West Indians, is to render domestic slavery more absolute and more intolerable, under the auspices of English liberty, than it has ever been even under the yoke of the most uncontrolled despotism. The arbitrary governments of France and Spain did not leave the slaves in their dominions to the legislative mercy of their masters. They took them under their own protection. . . . But the spirit of English liberty, it is pretended, forbids any such interposition, and compels us to abandon these most helpless of our fellow-creatures to whatever fate their masters may ordain.' <sup>1</sup>

The planters, in short, wanted their slaves, and if they could so distort the facts as to represent abolition as an illiberal measure, so much the better for them. But it is doubtful if these arguments convinced any one, even themselves. The passage of the slavery bills did in fact increase the dependence of the West Indies on the mother country, but of course it was within the power of Parliament to pass them. 'Breach of privilege' was during these years the phrase most frequently on the lips of the Jamaica legislators ; but a legally omnipotent Parliament could pass what laws it chose, and if customary privileges were infringed, they had no valid constitutional sanction.

The second division of the arguments against emancipation was based on the much firmer ground of public policy, and here

<sup>1</sup> Written in 1816 with reference to the Registration Act, *Memoirs of Sir Samuel Romilly*, ii. 428-9.



the planters could present a very strong case indeed. To enumerate them is beside the purpose of this study, but it may be recalled that the only example of the results of emancipation in the West Indies was Haiti, and that the conclusions to be drawn from it were miserable enough. Events proved that the forecasts of the 'saints' of the immediate revolution to be effected in the character of the negro by the first breath of liberty, were as far wide of the truth as the gloomy prophecies of the planters.

Though there is evidence that in many cases the approach of emancipation brought with it a less temperate treatment of the slaves, as it did later in the Southern States, the Assemblies in the forty years before abolition showed themselves by no means insensible to the necessity of improving the legal status of the slaves in order to counteract the effect of some of the charges of the abolitionists. In most of the colonies there were passed more humane slave-codes and acts removing many of the disabilities of the free coloured and negro inhabitants. That of their own accord, however, the Assemblies would never assent to emancipation was proved by the fiery show of independence aroused by the attempt of Lord Liverpool's ministry in 1823 to temporize by sending 'meliorating' laws out from England for local enactment. The failure of this hesitating policy finally brought about, ten years later, the passage of the Emancipation Act. By it slavery was abolished, some compensation was paid to the slave-owners from British funds, and the planters were allowed to retain for seven years the services of their former slaves as compulsory apprentices.<sup>1</sup> The vigorous use of all the means of obstruction evolved during a century and a half of intermittent warfare between Governor and Assembly was of no use to the planters; they were driven from their main position by a direct frontal attack, and all they could do was to harass and impede the victors. The last stage in the process, indeed,

<sup>1</sup> The total number of slaves for whom compensation was paid was 669,750, 311,692 being in Jamaica. The total amount was £16,589,373, ranging from an average per head of £53 in Honduras, where labour was scarcest, to £13 in the Bahamas, where it was abundant. A small additional number of slaves had never been registered, and for these no compensation was paid. The total compensation was less than half the estimated market value of the slaves.

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the shortening of the period of compulsory apprenticeship, was carried out by the Assemblies themselves in order to avoid the enforcement of further imperial legislation.

### § 2. *The Effects of Emancipation and the Struggle over Free Trade*

What were the political results? The old Assemblies had logically been representative enough; slaves were property, and like other forms of property had been represented by their owners. By the abolition of slavery some seven hundred thousand human beings were transferred from the category of property to the category of citizenship in the British West Indies. Totally uneducated, with among the vast majority for religion a thin Christian veneer, or no veneer at all, over vague memories of African superstitions, contented with little in the midst of fertility, filled with disinclination for regular labour inspired by the experience of its compulsory enforcement for many years, and fostered by its comparative superfluity in such surroundings, it is no wonder that as fellow-citizens the emancipated slaves seemed completely unsatisfactory to their late masters, whose livelihood depended on their labour no less than before. The defects of the old system of government were clear enough, but, so long as slaves were property, in theory the West Indian colonies were communities of white people, and therefore as much or as little fitted for self-government as the North American colonies. When the slave became the citizen the social revolution involved made any form of representative government next to impossible. Previous troubles had been due to conflicts between local interests represented by the Assembly and imperial interests upheld by the Governor; they had been caused by serious defects in the constitutional machinery. These defects remained untouched by the passage of the Emancipation Act, and their importance was enormously increased because the great powers of the Assemblies were thereafter wielded by a very small and very prejudiced minority of the citizens of the colonies.

The Jamaica Assembly soon demonstrated how true this was. It had received the emancipation measures with a very poor grace, and its temper was further inflamed by the arrival of



magistrates sent by the home government specially to protect the apprenticed negroes. The presence of these was undoubtedly a reflection, although a just reflection, on the character of the local bench. Then in 1838 Parliament passed the West India Prisons Act, by which the Crown was empowered to close unfit prisons without the consent of the local legislatures. This seemed to the Jamaica Assembly a last insult, a final attack, on their legislative independence. They passed resolutions accusing the House of Commons of 'perjury and corruption', and the House of Lords of 'cowardice and imbecility' and 'fraud and malice', and resolved that they would perform none of their duties except such as were necessary to maintain public credit. The Governor reported to the Secretary of State: 'It is impossible for any one to answer for the conduct of the House of Assembly. Many are there in the island who would be delighted to get up an insurrection for the pleasure of destroying the negroes and missionaries. They are, in fact, mad.'<sup>1</sup>

With the Assembly on strike and refusing to pass any of the legislation necessary to remove the many anomalies in the status of the newly emancipated negroes, and with public opinion in England growing more and more hostile to the planters, Lord Melbourne's Cabinet decided that still further parliamentary interference was required. For the information of the Cabinet, Henry Taylor, then Sir James Stephen's right-hand man in the Colonial Office, wrote a penetrating summary of the situation. 'The West Indian legislatures', he said, 'have neither the will nor the skill to make such laws as you want made; and they cannot be converted on the point of willingness, and they will not be instructed.'<sup>2</sup> The strike of the Jamaica Assembly provided an excellent occasion for a drastic reform. In Jamaica 'the obvious truth is that attempts at a representative system . . . must result in an oligarchy. Such the Assembly of Jamaica always has been, now is, and will inevitably continue to be, until the mass of the population shall have been educated and raised in the scale of society'. At present the Assembly is 'the very result and representative of slavery', and 'eminently

<sup>1</sup> Sir Lionel Smith to Lord Glenelg, 17 May 1838; quoted in Taylor, i, 244.

<sup>2</sup> Taylor to Stephen, 24 Oct. 1838; the succeeding extracts are from Taylor's minute of 14 Jan. 1839, printed in Taylor, i, 250-60.

disqualified for the great task of educating and improving a people newly born into freedom', while 'the royal authority in Jamaica resolves itself into the power of imposing inaction by the veto'. 'To effect by a force from without the greatest of all social changes, and yet to leave the political framework of this totally different society the same as it was, would seem, even in a mere theoretical view, to be in the nature of a political solecism.' Though the present danger was from the intolerance of the old white oligarchy, he feared a future danger of another sort if the constitution were left unaltered, that under the existing £10 franchise a negro Assembly might slowly replace the white, even more intolerant, and more dangerous in its intolerance through the possession of immensely superior force. He therefore concluded that 'it is at the present moment, if ever, that the Assembly can be got rid of', and recommended that representative institutions should be abolished by Parliament in all the West Indian colonies.

Taylor's analysis of the situation was in the main very acute, but his solution, although it ultimately came to be adopted by most of the colonies at their own request, was too extreme for the exigencies of English party government at the time. The Cabinet watered down his proposals into a Bill suspending the Jamaica Assembly for five years, but even this compromise only passed the House of Commons by a majority of five votes after a speech from Peel in opposition in the course of which he spoke of the measure as a proposal to set up 'a despotic and arbitrary power in place of that liberal system which had prevailed for upwards of 150 years'.<sup>1</sup> The Government thereupon resigned, but returned to office immediately over the Bed-chamber Question, and reintroduced the Bill. On this occasion it passed the Commons, but the Lords reduced it to an Act merely giving the Governor power to ordain any laws which he thought necessary two months after their rejection by the Assembly. With this Act in his pocket, Metcalfe, late Indian and future Canadian Governor, was sent out to replace Sir Lionel Smith, who had been forced by the intransigence of the

<sup>1</sup> Peel's *Speeches*, iii. 623. He continued with reference to the authority of Parliament to intervene: 'That transcendental power is an arcanum of empire, which ought to be kept back within the penetralia of the constitution.'



Assembly into supporting the negroes so strongly that there was no chance of his restoring peace.

So the dreary struggle went on. Metcalfe, it is true, by the exercise of great tact and statesmanship got the Assembly to work again, and secured the passage of much of the desired legislation; his successor, the Earl of Elgin, continued his policy, and these two, amongst the ablest Governors Jamaica ever had, gave the island a breathing-space of quiet.<sup>1</sup> This lasted, however, only until 1846, when the equalization of the sugar duties by the British Parliament precipitated as bitter a contest between Governor and Assembly as any that preceded it. The dispute is interesting, for by once more making obvious the impossibility of settled government with the existing system in force, it caused statesmen to turn towards the Canadian solution of similar difficulties before having recourse to the remedies prescribed by Taylor.

A brief examination of the economic consequences of emancipation is required in order to make clear the constitutional struggle, though it is here unnecessary to investigate in any detail the planters' contention that without a British differential duty in their favour they were being crushed by the competition of slave-grown sugar. The primary condition for plantation agriculture is a cheap and steady supply of labour. In Jamaica and British Guiana in particular the labour supply, already inadequate on account of the abolition of the slave-trade, was without doubt seriously affected by the liberation of the slaves, for in both colonies there were large tracts of land available on which the negroes could settle away from the estates. In Barbados and in some of the Leeward Islands, on the contrary, all the land was included in the estates, and the negroes had to work for at least a part of the time for their old masters in order to live. In the Bahamas also, though the political struggle over emancipation was as bitter as in Jamaica, the transition did not mean such serious dislocation. Jamaica was the storm centre

<sup>1</sup> See Kaye, *Life and Correspondence of Charles, Lord Metcalfe* (1854), ii. 383 ff. Elgin made no attempt to institute the system of responsible government in Jamaica with which his name is so closely associated in Canada. He went so far as to write from Jamaica: 'I regard our local constitution as a *fait accompli*, and have no desire to remove a stone of the fabric.'—*Letters and Journals of James, Eighth Earl of Elgin* (ed. Walrond, 1872), p. 27.

of resistance both to the abolition of slavery and to the ending of the last remnants of the mercantile system by the equalization of the British sugar duties.

It is probably quite true that 'the wrongs of the West Indian planter afforded a very useful rod for an active opposition to employ in the cudgelling of the Ministry'.<sup>1</sup> When that opposition succeeded to power, Disraeli's refusal in 1852, as Chancellor of the Exchequer in the new Tory Cabinet, to reimpose 'a differential duty to prop up a prostrate industry which is actually commanding the metropolitan market' is well known.<sup>2</sup> Some of the colonies were not affected greatly; others after a period of hardship became able again to hold their own; but to Jamaica especially, with the primitive fertility of its soil exhausted and labour scarce, the disappearance of the protected British market brought most serious troubles, which the immense increase in the English demand for sugar, consequent on the fall in price, did not allay. The cry that it was slave-grown sugar which was crippling the production of sugar by free labour in the West Indies was, however, rather an appeal designed to arouse in favour of the planters the humanitarian sentiment which had caused the abolition of slavery, than an exact statement of the cause of the distress. The fact was that new and more fertile sources of supply had been opened up, and these, whether worked by free or by slave labour, were able to produce at so low a cost as to drive beyond the margin of cultivation many of the sugar areas of the West Indies.<sup>3</sup> Many of the West Indian planters, therefore, were left behind by these fresh competitors in markets in which they had only kept their place by preferential treatment. From about this time, the already waning importance of the West Indies in the colonial empire was rapidly on the decline. Other sources were available for their once

<sup>1</sup> Egerton, p. 332; the same view is taken by Merivale, p. 339.

<sup>2</sup> 'I may be called a traitor—I may be called a renegade—but I want to know whether there is any gentleman in this House . . . who would recommend a differential duty,' &c.—Grey, *Col. Policy*, i. 198.

<sup>3</sup> Of course, there were many who claimed that free labour (when it could be secured) was cheaper than slave. There is an interesting discussion of this in Sir Francis Hincks, *Reminiscences of his Public Life* (Montreal, 1884). Hincks claims that in the 'fifties on one estate in Barbados 90 free labourers produced more than 230 slaves had done. But in Jamaica and British Guiana free labour was very difficult to get.



exclusive products, and henceforth they had to struggle for a precarious footing in the markets of the world. No more Governors came to Jamaica on their way from India to Canada, as Metcalfe had done. The combined influences of world-wide expansion and free trade pushed the West Indies back from their one-time commanding position as the centre of the colonial empire, into an unimportant and neglected corner of the Atlantic Ocean.

Whatever the merits of the planters' case, all the weapons which the Jamaica Assembly had learned to use were once again furbished, at the instigation, it is said, of the protectionists in England, who were seeking to force the Government into following the example of Melbourne in 1839 by attempting to suspend the colonial constitution. The detailed story of the struggle is told in many volumes of Parliamentary Papers, where it may be left to moulder in a befitting obscurity. In 1849, and again in 1853 after Disraeli's refusal to appease the planters by restoring protection, the majority in the Assembly took the most extreme measures it dared. Supplies were withheld, attempts were made to cut down salaries guaranteed by permanent laws, revenue acts were not renewed so that for months no taxes could be collected. The home Government, however, remained obdurate, and adhered to the instructions issued by Lord Grey in 1848, that the members of the Assembly should be informed that the financial responsibility for the island's government was theirs, and that if they chose to adopt such ruinous tactics they alone would have to answer for the results.<sup>1</sup>

Undoubtedly a crisis had been reached in the political history of Jamaica. Sir Henry Barkly, appointed Governor in 1853, reported that vast areas of land had gone out of cultivation since his last visit fifteen years before, that the condition of the ex-slaves in the negro villages which had sprung up everywhere since emancipation was 'appalling', and that the first step necessary to effect any improvement whatever was a radical alteration in the political machinery of the colony.<sup>2</sup> The public finances were in a desperate state; 'island cheques', a sort of inconvertible currency issued by the Jamaica Government,

<sup>1</sup> Grey, *Col. Policy*, i. 410-11.

<sup>2</sup> *Papers relative to Affairs of Island of Jamaica*, P. P. 1854, vol. xliii.

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were at a discount of from 30 to 40 per cent. ; and no money was coming in from customs, the chief source of revenue, on account of the Assembly's refusal to renew the authorizing acts. The Assembly itself was torn by internal dissensions, and its factions united only to block and harass the Government ; the planters' party, though it still commanded a majority, no longer had everything its own way, for it was sometimes opposed by the growing 'coloured' party, while the legal profession and the ancient Jewish mercantile community were fully represented.<sup>1</sup> This body in 1852-3 seemed bent on spreading ruin as widely as it could. The futility of its actions is almost incredible. High hopes had been raised by the formation of Lord Derby's Tory government in England, and when these were disappointed all the pent-up irritation created by the freeing of the slaves and the removal of fiscal privileges culminated in a frantic attempt to hit at the Government in every way in the power of the Assembly, with no regard for consequences. Like a hungry and ill-kempt dog which has been refused a bone by its thoughtless master, the Jamaica Assembly snarled at the heels of the Imperial Government.

### § 3. *The Movement towards Responsible Government*

In face of the crisis in Jamaica the home Government was not yet prepared to adopt the drastic remedy of abolishing the Assembly. Its tone, however, became more firm. When Barkly was sent out as Governor in 1853 he bore with him a dispatch instructing him to attempt to carry through the most necessary reforms, and ending with an undisguised threat : ' If the reforms required should be found impracticable, it would be vain to expect that a body so little in harmony with the spirit of the times as the Assembly of Jamaica can be long maintained in the exercise of irresponsible power.' The system of government was 'opposed . . . to all received principles, and to the practice of every country in which the science of government is understood',

<sup>1</sup> Gardner, p. 452 ; Dispatch from Sir C. Grey in *Papers relative to Legislative Proceedings in Jamaica*, pp. 6-10 (P. P. 1852-3, vol. lxxv). Jews had been prominent in Jamaica since Spanish times. Sir C. Grey accused the seven or eight Jewish merchants in the Assembly of juggling with the Customs for their private gain.



involving 'an utter absence of responsibility' and 'excessive waste and corruption in the public expenditure'. The essential changes demanded by the Secretary of State were three: first, that the irregular powers of the Assembly over finance should be renounced by the abolition of the Boards of Accounts and Works and the transfer of their duties to paid officials; secondly, that some system should be devised whereby the executive could have one or more spokesmen in the Assembly; and thirdly, that the estimates should be framed by the Government and the initiation of money votes restricted to the spokesmen of the Government.<sup>1</sup> As a *quid pro quo*, the home Government announced its readiness, as soon as the desired changes were carried out, to guarantee £500,000 of the island's debt and to advance a further £50,000 to relieve the financial situation.

There was a simple method of bringing about these changes, and to it the thoughts of those concerned for the good government of the colony had already turned. The cause of all the constitutional difficulties, decried so frequently by all parties, was that the Assembly was continually at variance with the executive, and possessed such wide powers that it could thwart and hinder it at every turn, without actually controlling it except in matters of finance. To construct some sort of a bridge between Assembly and Governor, so that the policy of the Government and the control of finance might be brought into a working connexion, was the immediate need. There had to be created some court of appeal to decide the perpetual disputes.<sup>2</sup> There were only two ways to accomplish this: either the legisla-

<sup>1</sup> Newcastle to Barkly, 16 Aug. 1853, in *Papers relative to Legislative Proceedings in Jamaica* (P. P. 1854, vol. xliii). The dispatch says further: 'Under the system which has acquired the force of law in Jamaica, the same body—sometimes under the name of a legislative assembly—sometimes under that of a board of accounts—and at other times (in conjunction with the Council) under that of a board of works, takes upon itself all the executive as well as all the legislative functions connected with the colonial finances. It imposes the taxes, superintends their collection, votes the appropriations, expends the money voted, and audits the accounts.' See above, pp. 42-3, for a further discussion of the financial powers of the Assembly.

<sup>2</sup> The British Parliament could of course intervene, as it had done over slavery, but its intervention was rightly restricted to issues of the greatest moment, and it was far too remote a body ever to smooth out the domestic difficulties in a distant island.

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ture, and ultimately the electorate, had to control the executive through the creation of a responsible ministry, or the executive had to be able in the last resort to enforce its policy, if necessary by overriding the elected representatives. There was no third course; yet an attempt was made to find a *via media* which only served to disguise the real issue.

\* { To bring the Assembly under the control of the Government would have meant the surrender of almost all its powers. Such a surrender was then out of the question as a voluntary act of the Assembly, and the home Government was not prepared to enforce it by parliamentary intervention. The grant of responsible government was, on the other hand, easily made; it was in line with the policy which was being adopted in the other colonies; and by increasing, instead of wiping out, the authority of the Assembly, it provided a permanent solution for the incessant conflict of powers which was well on the way to reducing the government of Jamaica to anarchy. Influenced by these considerations, Sir Charles Grey, as Governor, had made some advances to the Assembly in 1848, which the Assembly refused to entertain. In 1849 Earl Grey, the Secretary of State, informed him that the home Government was prepared to accept 'the proposal to assimilate the system of administration in Jamaica to that which prevails in Canada'. He went on to point out that the innovation would mean that the extraordinary powers over finance held by the Assembly would have to be relinquished, and thereupon the Assembly rejected the plan. That Lord Grey should think that 'the system now established in Canada' left less financial power in the hands of the lower house, and that the Jamaica legislators should take him seriously, show how little either he or they understood the real results of responsible government.<sup>1</sup>

The instructions given by the Duke of Newcastle to Barkly did not go so far as those of his predecessor; apparently the establishment of a wholly responsible ministry in Jamaica was not contemplated, and the question was deliberately left open whether the representatives of the executive whom he wished

<sup>1</sup> Grey, *Col. Policy*, i. 187-8, 412-22; Gardner, pp. 432, 441; *Despatches relative to condition of Sugar-growing Colonies* (P. P. 1852-3, vol. lxxvii), Pt. ii. 229-31.



to be introduced into the Assembly were to be responsible to that body or not. Barkly, coming to face the crisis in Jamaica fresh from a similar experience in Guiana, quickly got to work to find a way out of the *impasse* caused by the strike of the Assembly and the cessation of taxation, and his diplomatic methods and great ability in handling men met with a ready response. In opening the Assembly shortly after his arrival, he excellently summed up the situation and left a way open for the establishment of a responsible ministry. 'Here', he said,

'a social revolution, unparalleled in extent and completeness in the annals of history, has taken place during the last quarter of a century with scarce any deviation from the previous routine of public business. What Jamaica stands pre-eminently in need of at the present stage of her political progress, is a strong executive administration, consisting of upright and intelligent men chosen from among her own citizens, to devote themselves to the exclusive study of her condition, charged with the sole responsibility in all matters of finance, and serving as an acknowledged medium of communication between the representative of the Crown, the Council, and the House of Assembly.'<sup>1</sup>

The Assembly agreed to return to work, and referred the question of constitutional reform to a committee of its members.

This committee condemned in strong terms the extraordinary financial powers of the Assembly and the want of government representation therein, but resolved that 'what is termed responsible government is neither required nor practicable in Jamaica'. On its report a Bill was based modifying in a variety of ways the old constitution, and in 1854 the Bill became law<sup>2</sup>

The Bill was 'neither introduced by the local government, nor matured under its auspices'; indeed, the Governor had no means of placing his views before the Assembly. It was the product of the Assembly's own efforts, and it only passed by a majority of one.

This Act in the first place remodelled the Council by dividing its duties between two bodies, and thus ending its undesirable combination of executive and legislative functions. As second chamber a Legislative Council was created with its members

<sup>1</sup> *Papers relative to Legislative Proceedings in Jamaica* (P. P. 1854, vol. xliii), p. 11.

<sup>2</sup> Jamaica Laws, 17 Vict. c. 29.

nominated by the Crown for life, to which was given the right of initiating any legislation except money bills. The Privy Council remained the Governor's chief advisory body, but there was added to it a strange contrivance called the Executive Committee, which was made up of three members of Assembly and one Legislative Councillor. In the duties assigned to this body lay the importance of the change: its members were to be paid £800 salary a year and were to hold no other Crown appointment; they were to propose all money votes in the legislature in the name of the Crown; with the Governor they were to replace the old Commissioners of Accounts; they were to 'assist the Governor in preparing the annual estimates, in levying and disbursing the public monies, and in the general administration of the finances of the country'; they could be asked for advice on all other matters, but could not make any appointments to office; in the Assembly and Legislative Council they were to be 'the official organs of the Governor for all intercommunication between the Governor and such houses respectively and for the authoritative disclosure of the policy of the government on all questions'.

This was all very well so far as it went; by tinkering with the machinery it corrected some of the worst defects of the old system, but it corrected them only by substituting new difficulties. One clause in the Act had in it the seeds of future trouble: 'The executive government of this island shall continue to be discharged by the Governor, and on his responsibility, in the same manner as heretofore it has been.' If the Governor and Assembly could manage to keep in agreement on large questions of policy, the Act provided new means of removing misunderstandings and of promoting co-operation. A similar Executive Committee satisfactorily fulfils these duties in Barbados to-day.<sup>1</sup> But when there was serious disagreement, the new Committee had either to act as the undignified messengers of the Government to a hostile Assembly, or as the impotent spokesmen of the Assembly to a Governor whom they could not control; and in each case they were equally powerless. They had to be both loyal to the Governor and yet obey the will of the house, duties which in the existing state of politics in

<sup>1</sup> See below, pp. 86-7.



Jamaica were completely inconsistent. The Colonial Office, with delightful ambiguity, defined their position thus :

‘ Their direct and official responsibility is to the Governor, but they are responsible to the legislature in this sense—that if the Governor should be convinced that they are unable to obtain the support of the legislature . . . and that other men can be found who can obtain that support, it would be the duty of the Governor to call for their resignations.’<sup>1</sup>

This definition meant, if anything, that they were expected to do the impossible and agree with both sides.

Barkly realized that the new constitution was a very defective instrument of government. He wrote that ‘so far from being surprised at the manifest imperfections it contains, the wonder seems to me that it emerged at all from the perils which long threatened to engulf it’. He thought, however, that almost any change was for the better, and so long as he remained at the head of the Government he managed to keep things quiet by reason of his great prestige. But under his successors the perennial guerrilla warfare between Governor and Assembly broke out again, intensified by savage party skirmishing in the lower house. The ambiguous position of the Executive Committee became clearly evident; the Governor would not, and indeed in view of his instructions from the Crown could not, treat its members as responsible ministers; the Assembly claimed that the Committee was responsible to it, but that nevertheless the Governor’s ultimate executive responsibility was not infringed; and it was seen that the changes of 1854 had only made the machinery of government more complicated, not more efficient. Power was still divided between Governor and Assembly, and a quarrel between them still brought a deadlock. In Jamaica, at any rate, the faltering steps taken in the direction of responsible government had led only down a blind alley.

It is evidence of the primacy which Jamaica had assumed among the West Indian colonies that so many others hastened to alter their constitutional system in imitation of the Jamaica Act of 1854. Tobago in 1854, St. Kitts in 1857, St. Vincent, Nevis, and Antigua in 1859, all passed Acts inaugurating changes

<sup>1</sup> *Report of Jamaica for 1860*, p. 7 (P. P. 1862, vol. xxxvi). See also Woodcock, *Tobago*, pp. 132-9.

similar to those in Jamaica.<sup>1</sup> There appears to have been a general agreement that the old system was in dire need of alteration, but the greatest difficulty in persuading the Assemblies to pass the slightest of reforms. The Assemblies in all the colonies had developed much the same powers as had that of Jamaica. The Lieutenant-Governor of Nevis made in 1856 a typical report: 'The Executive has really now not the power, and scarcely any opportunity, to propose or advise measures of reform, or to throw out financial suggestions, and, except to veto the legalizing of any essentially mischievous enactment, remains powerless to effect good.'<sup>2</sup> Chief Justice Woodcock of Tobago in his history of that island has left an interesting account of the system of government at work in a small community.<sup>3</sup> He analyses ably the legislative troubles of the island, with the laws 'disjointed fragments thrown together by various hands', with 'a constant deficiency in the treasury and hasty legislation at the moment in attempts to raise a supply', with 'the business of all the business of none', and with the disposition of the public funds at the mercy of a few partisans. The Executive Committee in Tobago worked satisfactorily until 1863, when the Assembly, jealous of the reduction in its powers, resumed the unrestricted initiation of money votes, and thus crippled the limited utility of the reform. In all the islands which followed the lead of Jamaica, the position of the new Executive or Administrative Committees was equally vaguely defined, and in the end they proved powerless to bridge the gap between Governor and Assembly. Their disappearance was hastened by the burden of the salaries of their members in a time of universal financial depression.

Thus the invigorating tonic of responsible government, which had cured the political diseases of Canada, was in the West Indies so watered down that its healing value was gone. Herman Merivale, one of the leading authorities on colonial questions at that time, thought he saw in the Executive Committees an important development in the history of colonial government. Sharing the common opinion of his generation

<sup>1</sup> The seven other colonies then governed under the old representative system (Barbados, the Bahamas, Bermuda, Grenada, Dominica, Montserrat, and the Virgin Islands) do not appear to have tried the experiment.

<sup>2</sup> *Nevis Report for 1856* (P. P. 1857-8, vol. xl).

<sup>3</sup> Woodcock, *Tobago*, pp. 124-6, 130-3.



that the grant of full responsible government would result in independence, he grasped at the West Indian innovation as a workable compromise with complete self-government.<sup>1</sup> But experience showed that the great defect of the system, as in Merivale's description of it, was that lines of responsibility were never clearly defined. The Executive Committees were neither wholly servants of the Crown nor yet agents of the legislatures, but were left suspended between these two positions. The system, nevertheless, might have in time developed into some working arrangement, but that in all the West Indian colonies the primary condition for the successful working of responsible government was lacking, and no constitutional machinery, however well constructed, could replace it; in none of them was there any real public opinion, but only faction feeling.

#### § 4. *The Bankruptcy of the Old System*

Indeed, for any one to have supposed, as Lord Grey apparently did, that responsible government could have met with success in the West Indies, savours of an abstract faith in the virtue of political institutions in themselves without regard for the social background. No social contrast could be greater than that between Canada and Jamaica, with in the one a virile and politically minded population, and in the other a handful of white oligarchs, a smaller number of coloured demagogues, and a huge black residuum in a state of complete political inertia. Emancipation had increased the rate of white emigration, and vacated estates had in many cases been occupied by negro squatters. In many of the smaller islands the whites were to be reckoned by dozens rather than by hundreds; yet the franchise remained out of the reach of practically all the negroes, and of those who were qualified, both white and coloured, only a fraction made use of their rights.

The electoral figures are striking. In Jamaica in 1864 there were 1,903 electors on the register and 1,457 actual voters out of a population of some 450,000. In St. Vincent in 1854 there were 193 registered and 130 voters. In St. Kitts there were 25 members to be returned at annual elections, and 166 names

<sup>1</sup> Merivale, pp. 650-1. He errs in ascribing to Sir Francis Hincks, member of the first responsible ministry in Canada, the initiative in the West Indian reforms during his tenure of the governorship of the Windward Islands.

on the register; of these in 1853, 81 voted; in 1854, 43; in 1855, 65; and in 1856, 47; in the last year one parish was unable to return its two members, as the sole elector was in England. In Tobago in 1862 two members were elected by the vote of a single illiterate. These figures, taken from the annual reports, are typical, and it should be noted that, since the 'open poll' was in general use, there were no unopposed returns; votes had to be cast in every electoral district. It was distinctly the exception for a member to be returned by more than ten votes.

In these circumstances it is not surprising that those who were returned to the Assemblies were very ill-fitted for their position. From St. Vincent the Lieutenant-Governor reported in 1854 that 'there are hardly any persons of education and ability who are able or willing to devote their time to the public service without remuneration', yet 19 members of Assembly and 8 Councillors had to be found. Tobago in 1862 supported a Privy Council of 9, a Legislative Council of 7, and a House of Assembly of 16; to-day most of the duties of these bodies are performed by a single Warden. In 1865 the Lieutenant-Governor of Montserrat wrote: 'I regret that I am compelled to report the total unfitness of the persons chosen to serve in the Assembly, the greater number of whom can barely read and write,' and a visitor to the same island in the 'fifties found there 85 people who were literate and 77 officials, Councillors, and Assemblymen.<sup>1</sup> With such conditions, the form of government in the smaller islands was a ponderous absurdity, while in the more populous colonies it remained a 'political solecism'.

It was mockery in such societies to talk of the glories of self-government. Lack of fit candidates, lack of interest in elections, a general apathy in all political matters, characterized the politics of the small colonies. When this apathy was disturbed there was a complete absence of stability. On the one side there were prejudices and bitter memories frequently breaking out into intemperate actions, and on the other, among the few coloured and black citizens who interested themselves in politics, such as Gordon of Jamaica, even less reliability and a more dangerous passion. In 1865 the troubled air of West Indian politics was cleared by the local disturbance generally known as the Jamaica Rebellion.

<sup>1</sup> Davy, *The West Indies before and since Emancipation* (1854), p. 426.



## IV

### THE OLD REPRESENTATIVE SYSTEM : THE CHANGE TO CROWN COLONY GOVERNMENT <sup>1</sup>

#### § 1. *Changes before 1865*

It required the sudden shock of the outbreak in Jamaica to bring about a general repair of the decaying structure of West Indian government. But before the outbreak took place some of the smaller islands had begun to discard the cumbrous bi-cameral system in favour of a simpler form of legislature. It has already been mentioned that in the three colonies of British Guiana, Trinidad, and St. Lucia, captured during the revolutionary and Napoleonic wars, the old form of colonial government had not been established ; <sup>2</sup> in them, and especially in Trinidad and St. Lucia, the executive had been left in a position from which it could control the legislature. Towards the middle of the century similar power was given to the executive in two or three colonies which had previously possessed the doubtful blessing of Councils and Assemblies. The method adopted was to set up a single-chambered legislature in which the majority was nominated by the Crown, and in this way to solve the difficulties of divided responsibility by making it possible for the Governor to ensure the support of his legislature in case of necessity.

The first example was in 1848, when a separate government

<sup>1</sup> The phrase ' Crown Colony Government ' is used with various meanings. In the broadest, and perhaps most correct, sense it is applied to all the colonies in which the Crown retains the real control of the executive (i.e. to all the West Indian colonies). By both official and common usage, however, it is often narrowed so as to exclude colonies with elected Assemblies, though without a responsible executive. Sometimes it is applied in a still narrower sense only to those colonies which have no elected members at all in their legislatures. Here I employ it as a term covering the government of all the West Indian colonies to-day except Barbados and the Bahamas (and Bermuda), and I divide the genus ' Crown Colony ' into two species, ' pure ' where the whole legislature is nominated, and ' semi-representative ' where a part of it is chosen by election. See Keith, *Imperial Unity and the Dominions* (1916), p. 9.

<sup>2</sup> See above, p. 46-7.

was set up for the Turks and Caicos Islands at the south-eastern end of the long Bahama chain. This was hardly an instance of alteration from the old system, since the islands had not had a Council and Assembly of their own, but had come under the government of the Bahamas. The islands had first been frequented in the latter half of the seventeenth century by seasonal visitors from Bermuda, who came regularly to rake salt from their lagoons, and who regarded them as a dependency. This dependence was never given official recognition, and in 1799, in spite of the protests of the inhabitants, the islands were annexed by the Bahama Government. Salt was their only product, while the Bahamas were agricultural, and the general tariff certainly discriminated against the salt-exporters of the Turks Islands.<sup>1</sup> After prolonged friction the islands in 1848 were made into a separate colony 'under the superintendence of the Governor of Jamaica'. The Secretary of State for the Colonies made it a condition of this grant of separation that the legislature of the new colony should consist of the President (the head of the local executive), four nominated, and four elected members, these last to be chosen 'by a majority of those of the tax-payers who are able to read and write'.<sup>2</sup>

In 1854 a rapid series of constitutional changes was begun in the Virgin Islands. First, the ragged parody of Council and Assembly was done away with in favour of a single chamber made up of the Lieutenant-Governor, three nominated, and six elected members. In 1859 the number of elected members was reduced to four, and in 1867 election was dispensed with entirely, and the legislature became a nominated body. A story is told of one of these changes which well illustrates the political condition of the smaller colonies. The Speaker of the Assembly one day rode to the place of meeting on his mule, and entrusted this animal to the care of a small negro boy, while he assumed his august functions. On recovering the mule at an adjournment he found that in the interval it had been severely galloped.

<sup>1</sup> A traveller at the beginning of last century found that the inhabitants disavowed 'any connection with the Bahamas, and, although called upon by a law of the colony to delegate a representative to the Assembly . . . have totally refused to recognize its authority' (McKinnen, *Tour of the British West Indies* (1804), p. 128).

<sup>2</sup> Bahamas Act, 11 Vict. c. 1.



Thereupon the House reassembled, and the Speaker brought the incident to its notice. The House immediately voted that it constituted a breach of privilege, and inflicted a fine on the boy's father of some dozens of rum. The fine was promptly paid and at once dealt with by some of the assembled legislators, with the result that the supporters of constitutional reform, previously in a hopeless minority, were able forthwith to pass an Act modifying the constitution.<sup>1</sup>

In 1863 in the more important island of Dominica, without the adoption of these methods, the Council and Assembly were merged in one chamber of nineteen elected and nine nominated members, and in 1865 this chamber was reduced in size so that the Crown could command a nominated majority. These reforms were not put through without considerable difficulty. Dominica had never been prosperous, and its administration had become so chaotic, and its finances so desperate, that the Government tried to abolish the elected element altogether; but popular feeling was aroused, and as a compromise the semi-representative constitution of 1865 was established. This endured until 1898, when the Colonial Office made the grant of financial assistance to Dominica and Antigua conditional on the adoption of wholly nominated legislatures in both islands.<sup>2</sup>

### § 2. *The Jamaica 'Rebellion'*

The inroads on the old representative system up to 1865 were slight, and it still seemed to be firmly established. But in that

<sup>1</sup> Told by Sir William DesVoeux, on the authority of Lord Blachford, in *My Colonial Service* (1903), ii. 158. For an entertaining description of the Virgin Islands Council and Assembly, see *Letters from the Virgin Islands* (Anon., 1843), pp. 70 ff.

<sup>2</sup> It should be noted that in the new single chambers which replaced the old Councils and Assemblies the President (usually the Governor) was generally given both an original and a casting vote. Frequently the nominated and elected members were equal in number (as also were often the official and unofficial sections in wholly nominated legislatures), and by this reservation to the President of a second vote in case of need the chance of deadlock was avoided. Thus in a chamber composed of ten nominated and ten elected members the Governor could ensure the passage of his proposals, even in the face of united opposition from the elected members, by employing the ten 'tied' official votes, and his own casting vote in addition. In most West Indian legislatures the occupant of the chair still retains this double voting power. See below, pp. 141-3, for a discussion of the 'tied' official vote.

year the end came suddenly in Jamaica. On 11th October, at Morant Bay in the eastern part of the island, the parochial vestry was in session at the Court House. A few days before there had been some rioting and forcible resistance to arrest in the neighbourhood, and in anticipation of trouble the local militia was kept in readiness. A large and menacing negro crowd advanced towards the Court House, the militia formed up, stones were thrown, and finally the militia fired. The mob, however, was not checked, the Court House was captured and burnt, and eighteen of its occupants were killed, including the Custos of the parish. The village was then overrun completely by the rioters, the prisoners in the jail were released, and there was much looting. This was by far the most serious incident in the whole disturbance. During the following days another village was captured, and a few whites and faithful negroes on the plantations in the vicinity were murdered. On 13th October martial law was declared, and the rioters were thereafter quickly hunted down or driven to the hills by white troops assisted by bands of maroon negroes, the loyal descendants of the stubborn outlaws of the interior who had given so much trouble in the seventeenth and eighteenth centuries.

A Royal Commission was sent from England to investigate the outbreak, the chairman of which, Sir Henry Storks, temporarily assumed the governorship of the island. The Commission found that the trouble was caused by 'a planned resistance to lawful authority' which was animated by many motives. The chief of these was a desire to avoid the payment of rent, while well-merited distrust of the fairness of the local courts, irritation at personal injuries, and, in the case of two or three leaders, a race consciousness which demanded a race war for its satisfaction, were contributory causes. The rioters were not plantation labourers, but squatters who had settled on Crown lands or abandoned estates, and saw no reason why rent should be required of them.<sup>1</sup>

The affair was on so small a scale that by this time it would

<sup>1</sup> *Report of Royal Commission in P. P. 1866, vol. xxx; Evidence given before Commission in P. P. 1866, vol. xxxi. Further papers on the disturbance are in P. P. 1866, vol. li, and 1867, vol. xlix. See also E. B. Underhill, The Tragedy of Morant Bay (1895).*



probably have been forgotten were it not for the vigour of its suppression. The 'rebels' murdered about thirty people, white and coloured; there were no casualties of any sort among the soldiers and sailors used against them; yet 354 negroes were executed by sentence of courts martial, and nearly a hundred others were shot without trial. Further, Gordon, a coloured member of the Assembly, was arrested in Kingston outside the martial law area, and was taken illegally into that area, where he was tried by court martial and hanged. The Commission decided that the measures of suppression had been 'prompt and judicious', but that martial law had been continued too long, that too many punishments of death had been inflicted, that flogging had been administered recklessly, and that the burning of negro houses, 1,000 in all, had been 'wanton and cruel'. Governor Eyre was first suspended, and then dismissed, from office; but attempts to secure his conviction for the murder of Gordon failed, as well as some further efforts of the Jamaica Committee, formed in England, to have certain of Eyre's subordinate officers punished for similar offences.

Whether there was a real danger of serious rebellion is still a matter of controversy, but there is no doubt that Eyre and a large majority of the Assembly thought so, and that the great severity of the measures of repression was prompted by a very real fear of a race war, in the course of which the few thousand whites in the island would be stamped out with a savage cruelty.<sup>1</sup> It was an agrarian rising, a peasants' revolt, but it was also akin in nature to the old slave rebellions, and both sides were inflamed by passions of race and colour.

The affair is one of the most unhappy incidents in the modern history of British rule over coloured races, but constitutionally its results were rapid and beneficent. On 24th October, thirteen days after the revolt had begun, Eyre wrote to the Secretary of State (Cardwell) that he was going to attempt a change in the constitution, for 'the real truth is, that the people are not fit to elect legislators, and there are few persons in the island fit to become legislators'. The legislature met on 8th November. The Assembly had been at variance with Eyre from shortly

<sup>1</sup> Population at census of 1861: white, 13,816; coloured, 81,074; black, 346,374.

after his arrival in 1862, but it replied to his address urging it to 'immolate on the altar of patriotism the two Branches of the Legislature . . . to hand down to posterity a noble example of self-denial and heroism', that, 'deeply impressed with the full conviction that nothing but the existence of a strong Government can prevent this island from lapsing into the condition of a second Haiti', it would—at last—'cheerfully' consider constitutional reform. Eyre based his demand for reform both on the general need for 'strong government' and on the particular ground that the colony could not find enough men of adequate calibre to fill the sixty-four places in the two chambers of the legislature.

The 'cheerful' consideration of the Assembly took the form of a good deal of bickering, but by the beginning of December a compromise measure was passed, by which a single chamber was set up in place of the Council and Assembly, composed of twelve elected and twelve nominated members.<sup>1</sup> This Act never came into force. A day or two after its passage Eyre received instructions from the Secretary of State to the effect that, though the practice had been for many years to devolve colonial responsibilities on colonial shoulders, yet, 'in a case in which local self-government is incompatible with the welfare and even the safety of the Colony', Her Majesty's Government was prepared to assume, at the request of the colonists, even an additional responsibility. Indeed, in Jamaica, 'if the fact of the revolt should lead to the reconstitution of the Legislature by its own act, the community may receive some compensation in future good government for the calamity with which it has just been afflicted'. Cardwell continued that the Crown would prefer a wholly nominated legislature to a partly elected one, and that any change must 'vest power and responsibility substantially in the Crown', as there was no real basis for representative institutions. Armed with this dispatch, Eyre brought the matter again before the legislature, and succeeded with difficulty in persuading the Assembly to repeal its former decision and to entrust the task of prescribing a new constitution to the Crown 'in such form and with such powers as to her Majesty may seem best fitting'.<sup>2</sup>

<sup>1</sup> Jamaica Laws, 29 Vict. c. 11.

<sup>2</sup> Jamaica Laws, 29 Vict. c. 24. Sanction to the first Act was not refused



Authority to undertake the new duties thus imposed upon the Crown was obtained from Parliament,<sup>1</sup> and on 11th June 1866 an Order in Council was issued by the home Government by which a nominated Legislative Council was set up. This was composed of the Governor, six officials who held their seats *ex officio*, and an unspecified number of unofficial members, of whom three were at first appointed. The Privy Council was retained as an executive body. The new Council began its duties in October 1866. The Assembly of Jamaica, for centuries so tenacious of its rights and privileges, had finished its career by a complete abdication of all its powers.

### § 3. *The End of the Old System*

The political prestige of Jamaica was again demonstrated by the widespread imitation of its constitutional reforms. Usually, however, the process of alteration from Council and Assembly to single nominated Council was more gradual than it had been in Jamaica. First, perhaps, the Council and Assembly would be merged in one body, as they had been in Dominica in 1863; then the number of elected members would be reduced so as to leave a nominated majority; finally, the elected members would be dispensed with altogether, and the whole legislature would be nominated by the Crown.<sup>2</sup> The change was rapid: by the end of 1875 Barbados, the Bahamas, and Bermuda alone retained their old constitutions; and by 1878 elected members sat in none of the West Indian legislatures, except in those of the same three colonies and in the subordinate chambers of Antigua and Dominica in the Leeward Islands Federation, out of the thirteen islands which twenty years before had had Assemblies of their own.<sup>3</sup> The old system had been so thoroughly condemned, both by the home Government, though this is the general account. There was only fourteen days' interval between the passage of the two Acts. See Eyre's Dispatch of 22 Dec. 1865 in P. P. 1866, vol. li, and Underhill, *Tragedy of Morant Bay*, pp. 75-8.

<sup>1</sup> Imp. Act, 29 Vict. c. 12.

<sup>2</sup> The dates of the various alterations in each colony are given in the table at p. 80. The home Government encouraged the complete elimination of elected members, and in one instance at least, in St. Vincent, refused to agree to an elected majority being left in the legislature (St. Vincent *Report for 1866*, in P. P. 1867-8, vol. xlviii).

<sup>3</sup> In the Windward Islands, as in Jamaica, a formal renunciation was made to the Crown of the powers granted to the Assemblies; this was accepted under

as a method of government in general and as a method of West Indian government in particular, that once 'the inertia of established institutions' had been disturbed in Jamaica it was quick to go.

The establishment of an effective and permanent method of co-operation between executive and legislature resulted in a great outburst of legislative activity. In Jamaica, for example, under the able and firm control of Sir J. P. Grant, ninety-seven laws were passed in 1867 and 1868 covering a very wide field. It is hardly saying too much to maintain that the full benefits of emancipation were only made available for the negroes of Jamaica, and also for those of some other islands, after the Assemblies disappeared, when at last a chance was given for a sane policy to be consistently followed by a strong Government.

✱ The change from the old system was deliberately encouraged by successive Secretaries of State in England, for three main reasons. In the first place, the financial condition of most of the colonial governments was perennially verging on bankruptcy; if grants in aid were to be made from imperial funds, the home Government insisted that the Crown must have power to direct the use to which this assistance was to be put. Secondly, the abolition of the Assemblies removed an almost insurmountable barrier to good government in any circumstances. Thirdly, a truer representation of all classes, it was held, was possible in a nominated body than in one recruited by any form of election, in communities in which public opinion was so inchoate and so prejudiced. The Crown had been forced, under the old system, to take on itself the duty of representing the lower classes. One Secretary of State wrote of 'that direct protection by the Crown of the unrepresented classes, which takes the place of representation, and which is afforded by the constitution of a Crown Colony'.<sup>1</sup> The Governor had had, indeed, to combine the duties

authority of Imp. Act 39 & 40 Vict. c. 47, and the new constitutions were prescribed by Orders in Council. In the Leeward Islands and in British Honduras the modifications were made by local acts, and in consequence, as the powers originally granted have not been restored to the Crown, it has not the power to legislate for these colonies by Order in Council. See *Colonial Regulations*, c. 1, § 1, and Keith, *Responsible Government in the Dominions*, iii. 1444 n. 1. See also p. 21 above.

<sup>1</sup> Lord Carnarvon to Governor Strachan of Barbados, 16 Nov. 1877, in C. 2645 (1880), pp. 3-6.



of conducting the executive government for the whole colony, and of acting as the special protector of the large majority of the inhabitants against the partisan use of the political power which lay in the hands of a very small oligarchy in possession of almost all the wealth—a difficult and anomalous position.—

The official view of the constitutional changes was well put in a circular dispatch in 1868 :

‘ The population at large, consisting of uneducated negroes, neither had, nor could have, any political powers ; they were incapable of contributing to the formation of any intelligent public opinion ; and the consequence was that the Assemblies performed their office of legislation under no real or effective responsibility. They became aware apparently that irresponsible legislation by small local bodies was not for the interest even of the members of those bodies themselves, or of the class which they represented, and still less of the inhabitants at large. ’—

The new legislatures

‘ have one feature in common—that the power of the Crown in the Legislature, if pressed to its extreme limit, would avail to overcome every resistance that could be made to it. . . . The object of all parties was to establish a system of government and legislation by which the financial condition of the colonies should be improved, and their agricultural and commercial interests be promoted, by which industry might be encouraged, crime repressed, and the welfare of all classes be better provided for. For these ends Her Majesty’s Government were willing to accept the trust which the Assemblies were desirous to place mainly in their hands. But Her Majesty’s Government were not willing to accept this trust unless accompanied by such a measure of power and authority as would enable them to perform effectively the duties which it was expected of them to undertake. ’<sup>1</sup>

It may safely be said that the benefits anticipated in this dispatch have on the whole been realized, and that the islands have been delivered from the most dangerous of the political evils with which they were then afflicted. In this case at any rate the habit of abstract reasoning in Downing Street about the affairs of distant colonies, which has so often been the cause of trouble, resulted in little which was not for the ultimate good of the West Indian colonies.—

<sup>1</sup> Dispatch signed by the Duke of Buckingham of 17 Aug. 1868, quoted in Sir C. Bruce, *The Broad Stone of Empire*, i. 234–41.

## 80 TABLE OF DATES OF CHIEF CONSTITUTIONAL

<i>Colony.</i>	<i>Date of Settlement or Capture.<sup>1</sup></i>	<i>Old Representative System.</i>	<i>Single Chamber, Elected Majority.</i>
Bahama Islands .	About 1635 (S)	1728	—
Barbados . .	1626 (S)	1640 1663	—
Bermuda . .	1612 (S)	1620 1684	—
British Guiana .	1803 (C)	—	1803
British Honduras .	About 1660 (S)	—	1853 to 1870
Jamaica . .	1655 (C)	1663 to 1866	—
Cayman Islands	About 1660 (S)	—	Before 1750
Turks and Caicos Islands . .	About 1670 (S)	—	—
<i>Leeward Islands</i>			
Antigua . .	About 1632 (S)	1663 to 1866	—
St. Kitts . .	1624 (S)	1663 to 1866	—
Nevis . .	1628 (S)	1663 to 1866	—
Montserrat .	About 1628 (S)	1663 to 1861	1861 to 1866
Virgin Islands .	About 1666 (S)	1773 to 1854	1854 to 1859
Dominica . .	1763 (C)	1775 to 1863	1863 to 1865
Trinidad . .	1797 (C)	—	—
Tobago . .	1803 (C)	1803 to 1874	1874 to 1877
<i>Windward Islands</i>			
Grenada . .	1763 (C)	1766 to 1875	—
St. Vincent .	1763 (C)	1766 to 1868	—
St. Lucia . .	1803 (C)	—	—

<sup>1</sup> (S) indicates a settled



<i>Single Chamber, Nominated Majority.</i>	<i>Wholly Nominated Legislature.</i>	<i>Remarks.</i>
—	—	Government before 1728 unsettled ; see pp. 32-4.
—	—	Proprietary rule ended in 1663 ; before that time Council and Assembly (dating from c. 1640) sat as one body.
—	—	Company rule ended in 1684 ; before that time Assembly (instituted 1620) sat with Council.
—	—	There is an elected majority in legis- lature only for financial legislation.
—	1870	For question of date of occupation see Chap. VI. Before 1853 there was government by public meeting.
1884	1866 to 1884	
—	—	Placed under Government of Jamai- ca in 1863.
1848 to 1873	1873	Placed under Government of Jamai- ca in 1873. Under Bahama Govern- ment, 1799-1848.
1866 to 1898	1898	Leeward Islands Federation formed in 1871. The first four islands were under proprietary rule until 1663, and their Assemblies generally sat with the Councils.
1866 to 1878	1878	
1866 to 1877	1877	St. Kitts and Nevis were united in 1882.
—	1866	
1859 to 1867	1867	Government unsettled before 1773.
1865 to 1898	1898	
—	1797	
—	1877	United with Trinidad in 1889 and 1899.
1875 to 1877	1877	
1868 to 1877	1877	
—	1803	

and (C) a conquered colony.

## V

### THE OLD REPRESENTATIVE SYSTEM : THE SURVIVING EXAMPLES

#### § I. *Barbados*

IN Barbados, the Bahama Islands, and Bermuda the form of government introduced soon after their settlement has been retained to the present day without substantial modification. In them alone can the working of the old form of colonial government be studied under modern conditions ; their constitutions are the only survivors of the system under which the American colonies grew up to independence, and the self-governing Dominions to complete domestic autonomy. In the Bahamas and Bermuda the eighteenth-century forms have been preserved with greater completeness than in Barbados, where the unlimited financial powers of the Assembly have been modified in some respects. In Barbados, indeed, the administration has assumed the general appearance of responsible government, though without the reality, for the permanence of this condition depends on an unusual degree of political quiescence. In all three colonies there have been periods of constitutional deadlock in modern times, but in none were the difficulties present in so acute a form which in the other colonies forced the renunciation of representative government,

It has already been noted that in Barbados there was no vacant land available after emancipation to attract the negroes away from the estates. Almost every foot of the little island was under cultivation, and had been so for two hundred years. As a consequence the planters were spared the serious labour shortage of most of the other colonies. In Jamaica, for example, in slavery times the negroes had grown the bulk of their own food on provision grounds which often were at a considerable distance from the estates. They were released, according to a recognized custom, from plantation labour for a certain



number of days each month to attend to these plots. Thus while still slaves they were in a sense self-supporting, and when they were freed they were able to provide themselves with the simple fare to which they were accustomed with little or no work for wages.<sup>1</sup> In Barbados all the land was in the hands of the planters, who had themselves grown the food for their slaves, and the emancipated negroes had to work on the estates in order to live. With the very dense population, labour on the island was comparatively abundant, and this, together with the relative tranquillity of the Government from early times and the long and unbroken association of the two races for over two centuries, made for the establishment of a more satisfactory *modus vivendi* after the social revolution of emancipation than could exist elsewhere.

This favourable position enabled Barbados to prosper by the production of sugar even after the equalization of the sugar duties. It was not until 1876 that a serious constitutional crisis occurred, on the occasion of the 'Confederation Riots' during the governorship of Mr. Pope Hennessy. An account of the issue so far as federation is concerned is given elsewhere; <sup>2</sup> regarding the domestic condition of the island the chief facts which emerged were that a large section of the negro population was living in a condition of abject poverty, and that the peaceful *entente* between land-owner and labourer was temporarily shattered. A new boggy was afflicting the planters, the ever-growing competition of bounty-fed beet sugar from the continent of Europe. They feared that by federation with other less fortunate islands they might lose the control of finance which they held by their ancient constitution, and also their cheap labour supply through the encouragement of emigration.<sup>3</sup> The widespread poverty of the lower classes forced the Governor, here as in other colonies, to take his stand as their protector against the sectionalism of the Assembly. Whether his remedies, violently opposed by the upper classes, would have been effective is legitimately open to doubt, but the Assembly had nothing to offer but the *status quo*.

<sup>1</sup> For an account of the provision grounds in Jamaica see Lewis, *Journal of a West Indian Proprietor* (1834), *passim*.

<sup>2</sup> See below, pp. 156-7.

<sup>3</sup> C. 1539 (1876), pp. 205-10.

Hennessy's first step was to set up a separate Executive Council, since in Barbados the Council had up to then retained its dual function of second chamber and privy council. This he did with the support of the home Government by an act of prerogative, and such a departure undoubtedly lay within his powers. The old Council, however, took the change very ill, though it cannot be doubted that an alteration from a state of affairs in which 'active opponents of the Government have been seated at the confidential meetings of the administrative officers' to a compact Executive Council of responsible public officials, was a change for the better.<sup>1</sup>

The political agitation on the issue of federation culminated in a riot in which eight people were killed and much property destroyed. It had been fostered by a campaign of misrepresentation on the part of the majority of the Assembly and their supporters, and on the part of the lower classes by ignorant anticipations of the beneficial effects of the move on their economic condition. Hennessy erred by lack of forbearance, but his opponents both in Barbados and in England went further than he. In Barbados the Assembly, in its desire to oppose the Governor in every respect, made itself ridiculous by going to such extremes as to insist on celebrating the Queen's birthday on a day different from that announced by proclamation of the Governor. In England the repeated protests and unsolicited advice of the West India Committee drew from the Colonial Office a well-deserved rebuke, and a definition of the Government's position :

'The anxiety which exists as to the suitability of the Barbados Constitution for a time of danger or difficulty arises from the fact that it is deficient in some of the leading principles of the British Constitution, to which it cannot be said to be similar, inasmuch as the popular chamber is elected by a very small section of the community, is unconnected with, and often opposed to, the Executive Government, and follows the elsewhere condemned practice of voting money otherwise than on the recommendation of the Executive Government, and of controlling

<sup>1</sup> C. 1539 (1876), pp. 107, 124, 173. Lord Carnarvon wrote to Hennessy (2 Jan. 1876) : 'The Constitution of Barbados is so far defective in that it fails to provide for an Executive Council composed of public officers directly responsible to the Crown to consult with the Governor.' *Ibid.* p. 81.



expenditure without the intervention of the Government officers . . . The condition of the people . . . is acknowledged to be such that it is impossible to maintain that the institutions of the colony have produced a satisfactory state of affairs.' <sup>1</sup>

The rioting brought matters to a head. It seemed for a time as though the constitution of Barbados were going to meet with the same fate as that of Jamaica. Hennessy's opinion was that 'real progress or public confidence in the Legislature' could only be assured by the introduction of Crown Colony Government. Failing this, he recommended a mixed Executive Council, to include some members of the Assembly who should be responsible 'not to the Crown, but to the freeholders of the Island', a recommendation very justly considered by Lord Carnarvon as 'obviously impossible for the Secretary of State to entertain'.<sup>2</sup> Hennessy himself was, however, the chief obstacle in the way of a peaceful adjustment, for he was the idol of the negroes and an object of hatred to the planters. When he had been transferred to another colony and the issue of federation had been dropped, quiet was gradually restored, and the old institutions were allowed to remain on condition of their amendment. The Secretary of State wrote to Hennessy's successor :

'I have been called upon to consider whether it is now possible to maintain in existence the old constitution of the island. That constitution possesses features which, however interesting as having been handed down from a remote period, are in some respects inconsistent with the principles on which it is now demanded that the subjects of Her Majesty in every part of the world should be governed.'

It is 'a constitution conferring singularly independent powers on a small minority of the people', but neither is an extended franchise feasible, nor 'am I now prepared to invite either the local Legislature or the Imperial Parliament to transform Barbados into a Crown Colony'. Some defects, however, require immediate attention: 'the anomalous practice of expending the public money through Committees or Boards composed of members of the Legislature' should be abolished, the Govern-

<sup>1</sup> 30 June 1876, in C. 1559 (1876), p. 218.

<sup>2</sup> C. 1679 (1877), p. 41, and C. 1687 (1877), p. 17.

ment should prepare the estimates, and should have spokesmen in the Assembly, preferably by allowing some officials to sit without election. 'It will rest with the Assembly to show whether I am justified in the hope that the existing constitution of Barbados may be made to meet with the requirements of the community, and the necessity of any extensive modifications of it may be averted.'<sup>1</sup>

It was not until 1881 that the main recommendations of the Secretary of State were carried out. In that year there was set up an Executive Committee not unlike that which had failed to meet the needs of Jamaica between 1854 and 1865. In Barbados the conditions were different; bitter political controversy was absent; and the wishes of the majority of the House of Assembly have remained in sufficient accord with the policy of the Government to permit the Committee to serve as a useful link. In fact, since the Committee was established there does not seem to have been any difference of opinion between the Governor and the majority of the Assembly so wide as to cause a deadlock. The members of the Committee are appointed by the Governor, and are responsible to him; they would not necessarily be called on to resign if a Government measure of importance put forward by them were defeated in the Assembly. If a serious crisis were to arise the system would break down; but meanwhile the debates of the House of Assembly read very much as though there were responsible government, and the members of the Executive Committee in the House of Assembly answer questions, introduce Government proposals, and initiate financial measures, as though they belonged to a ministry the existence of which depended on the will of the House.<sup>2</sup>

The Executive Committee, as now constituted, consists of the Governor, his Executive Council, and five further members chosen by the Governor, four of whom must be members of the Assembly and one of the Legislative Council. The duties of these

<sup>1</sup> Carnarvon to Strachan, 16 Nov. 1877, in C. 2645 (1880), pp. 3-6.

<sup>2</sup> The Under Secretary for the Colonies, Mr. E. F. L. Wood, in his report of his recent tour, comments: 'Although, in theory, the Secretary of State through the Governor is still responsible for the government of Barbados, it is in fact in the hands of the House of Assembly that political power lies, since, without their consent, the Governor is powerless to carry either votes of money or legislation.' Cmd. 1679 (1922), p. 31.



five members are defined by statute as 'to form, together with the Governor-in-Executive-Council, a committee for the transaction of public financial business, for the consideration of ways and means, for the advising with the Governor on any measures which the Executive may deem it expedient to bring before the Legislature, and for the conduct of public works'. Further, 'the initiation of money votes . . . by individual members of the House of Assembly shall cease, and shall be made only on the responsibility of the Executive Committee'. The estimates are prepared and presented by it to the House, and certain public property is placed under its control.<sup>1</sup>

The executive organization of Barbados consists of an Executive Council<sup>2</sup> (composed of the Colonial Secretary, the Attorney-General, and at present two others) and this Executive Committee. The legislature is composed of the Governor and two chambers, the Legislative Council and the Assembly. The members of the former, at present nine in number, are appointed by the Crown during pleasure; they sit under a President chosen by the Governor, and they have full co-ordinate powers of legislation except in finance; in finance they have no power of initiation or amendment, and only the right of rejection of the proposals of the Assembly.<sup>3</sup>

Twenty-four members sit in the Assembly, elected from twelve divisions returning two members each. The qualifications for membership and for the franchise are too complex to be given in full. For membership an income of £200 a year may be taken as a typical qualification, and for the vote an income of £50 (with the restriction that it must not be derived from domestic or menial service), or the ownership of land worth £5 annually.<sup>4</sup> The House elects its Speaker at the opening of the session, and he proceeds to claim from the Governor its 'ancient and un-

<sup>1</sup> *The Executive Committee Act, 1891.*

<sup>2</sup> Regulated by Letters Patent and Instructions of 4 June 1914.

<sup>3</sup> As in Great Britain before the passage of the Parliament Act, 1911, the financial privileges of the Assembly are asserted by Standing Order only: 'All aids and supplies and aids to the Governor are the sole gift of the General Assembly, and all Bills for the granting of any such aids and supplies are to begin with the General Assembly.' Such grants 'may not be changed or altered by the Council'. *Standing Orders of the General Assembly, § 272.*

<sup>4</sup> The franchise is prescribed by the *Representation of the People Act, 1901.*

doubted rights and privileges'. The Colonial Treasurer is then selected, but his appointment must be approved by the Governor-in-Executive-Committee.<sup>1</sup> In procedure the model of the House of Commons before rules against obstruction became necessary is closely followed, as in the provision that 'no member may refer to any other member by name'. The Assembly does not sit in regular sessions, but meets all the year round about once in every fortnight.

One of the strangest features of this curious constitution lies in the realization of that goal of the Chartists, annual parliaments. It is provided by statute that 'no General Assembly of this Island shall be or continue in force for more than one year at any one time to be computed from their first meeting as an Assembly',<sup>2</sup> and the custom dates back to a remote past at least two hundred and sixty years ago. The only occasion in recent years on which the annual election was omitted was in 1876 in the midst of the federation dispute; the Assembly expired in November of that year, and no writs for a new election were issued until November 1877. Perhaps it is in part due to this frequency of elections that so little interest is taken in them. Though the franchise is low enough to be within the reach of many of the coloured and negro citizens, very few take the trouble to be registered as voters. In 1905-6 there were only 1,604 registered, in 1914-15 2,004, and in 1918-19 1,820. No record of the number of votes cast appears in the annual blue-books of the colony, but the general rule seems to be for contests to take place only in one or two of the twelve divisions. Contests, indeed, appear to be regarded with disfavour; a recent article in one of the chief local newspapers began: 'Those persons who delight in a contested election, and who think it a good thing for this community that such political battles should be fought here, are likely, we learn, to be gratified'—surely a strange attitude in a society which boasts of its free representative institutions.<sup>3</sup> In the sequel three candidates stood for two seats, and after a fiery campaign 247 votes were recorded.

<sup>1</sup> See above, p. 42. Now regulated by the *Colonial Treasurer's Act*, 1891.

<sup>2</sup> *Representation of the People Act*, 1901, § 59. In 1706 and again in 1808 attempts were made unsuccessfully to change from annual elections.

<sup>3</sup> *Barbados Standard*, 5 Feb. 1921.



The majority of the members of Assembly are white, but the negro and coloured elements have some representatives of their own colour. In 1843 the first coloured member was elected, and in 1910 there were seven coloured Assemblymen and one negro, who sat as well on the Executive Committee.<sup>1</sup> Sir Conrad Reeves, for many years Chief Justice of the island, was a mulatto. Though it would be an exaggeration to say that there is no race feeling in Barbados, for the colour line is drawn more clearly there than in probably any other West Indian colony, it is significant that white candidates are returned continually without opposition, or by the votes of negro and coloured supporters. The intense class feeling of 1876 has disappeared, and the illogical old constitution works placidly on.

## § 2. *The Bahamas*

The political institutions of the Bahama Islands have been altered hardly at all in form in the two centuries of their existence. It seems, indeed, as though the islands had been almost entirely forgotten. Numbered among, yet having little in common with, the West Indian colonies, cut off from the rest by the geographical barrier of the Greater Antilles, and by the nature of their products and the character of their population, they have only emerged from obscurity on four occasions in their history. In each case their temporary prosperity was due to unforeseen external causes. The first was after the American Revolution, when many Loyalist immigrants came from the South with their slaves and began an unsuccessful attempt at plantation agriculture. The second was at the close of the eighteenth century, when Nassau was a great centre of trade under licence with the enemy colonies of France and Spain. The third was during the American Civil War, when Nassau became the head-quarters of the Southern blockade-runners and flourished exceedingly.<sup>2</sup> The fourth period of prosperity is now in progress, and is due to the enactment of prohibition in the United States; this has resulted in

<sup>1</sup> It is difficult to secure figures of this nature for the West Indian colonies. Those here given for 1910 are taken from Sir H. Johnston, *The Negro in the New World* (1910), p. 223.

<sup>2</sup> Imports into Nassau, 1864, £5,346,112 (two-thirds being cotton), and exports £4,672,398 (three-fourths being cotton). Exports of native products, 1864, £62,478.

amazing receipts from the duties on the importation of liquor ; in less than three years the colonial debt of nearly £200,000 has been paid off, and there is a surplus greater than this figure to the credit of the colony.<sup>1</sup> In the intervals the public treasury has had a hard struggle against bankruptcy, and there has been little private wealth. A governor in the sixties of last century, before the era of lighthouses, once reported officially that ' whatever prosperity the colony enjoyed was due almost entirely to wrecks ', both premeditated and accidental.<sup>2</sup> In recent years, however, steps have been taken to put on a sounder footing the sponge fishery and agriculture (sponges and sisal hemp are the staple exports), and to develop the tourist traffic.

The high proportion of the white to the coloured inhabitants is a further point of difference from the other West Indian colonies. This has been estimated at about one to six, though no census of colour has ever been taken. A considerable number are ' poor whites ', among whom there has been much racial degeneration.<sup>3</sup> Some of the ' out-islands '—that is, all the islands except New Providence—contain settlements composed solely of these people, who in many cases are the descendants of the Loyalists who came from the southern States.

The troubled early history of the islands has already been described. It was not until the end of the eighteenth century that the last traces of proprietary government disappeared. Though in 1717 the proprietors had given up to the Crown their rights of government, they retained their ownership of all land until they were bought out by the Crown for £12,000 in 1787.<sup>4</sup> In 1795, in consequence of friction between the Loyalist immigrants and the earlier settlers, there was a political dispute which resulted in the passage of a Septennial Act after an Assembly

<sup>1</sup> Revenue, 1918-19, £81,049; 1919-20, £204,296; 1921-22, about £450,000; estimated revenue, 1922-23, £626,281, £600,000 being from Customs duties.

<sup>2</sup> *Report for 1868*, in P. P. 1870, vol. xlix. The statement refers to the period before the American Civil War.

<sup>3</sup> There is a detailed study of these poor whites in *The Bahama Islands*. The Bahamas are the only islands in which they are numerous, but there are a few, the descendants of white indentured servants, in Barbados, St. Kitts, and Antigua.

<sup>4</sup> Document in Malcolm, *Bahama Documents*.



had clung to office for nine years.<sup>1</sup> This was the precursor of the usual prolonged deadlock over slavery, when the Assembly employed every means of obstruction which experience had taught them—and they were many—and even tried to proceed against an unpopular Attorney-General in 1817 by a sort of Bill of Attainder. On one occasion the Assembly did not meet for over eighteen months, since the members refused to sit so long as a certain Governor remained in office. There were continual dissolutions, but the same members were generally re-elected with a pledge to oppose the Government. At last in 1840 a Governor managed to secure for his policy a majority of one in the Assembly, and from the following year to the present there has been no very serious constitutional dispute, although in 1868 there was much excited discussion, over an issue raised by a proposal to disendow the established church, as to whether the Assembly had a right to demand its own dissolution after the Council had refused to agree to one of its measures.<sup>2</sup>

The only change of importance which has been made in the form of government was the creation in 1841 of separate Legislative and Executive Councils in place of the old joint Council. The Bahamas were the first of the West Indian colonies in which this change was made, and it was there undertaken because the Governor wished to be able to summon to his Council some members of the Assembly, and was unable to do this so long as the second chamber and privy council were combined.<sup>3</sup> The Executive Council now contains eight members, five of whom belong as well to one or other legislative body, thus providing a link between the Government and the Legislature, while the other three are the principal officials. The Legislative Council consists of a President and eight members appointed by the Crown, some of whom are officials and the rest private citizens.<sup>4</sup>

The Assembly has a membership of twenty-nine, returned

<sup>1</sup> The Septennial Act was suspended twice during the European War, in 1917 and 1918.

<sup>2</sup> See pamphlet, *The Disendowment Movement in the Bahamas* (Anon.), 1868.

<sup>3</sup> Councils separated by Letters Patent of 12 Jan. 1841. See *The Bahama Islands*, pp. 534-5.

<sup>4</sup> The Councils are now governed by Letters Patent and Instructions of 8 Sept. 1909.

from fifteen divisions with from one to three members each. Outside New Providence, which contains four divisions with eight members, the various islands are the constituencies. The qualifications are simpler than in Barbados. For membership all that is required is the ownership of an estate, real or personal, of the capital value of £200, or the tenure of certain offices such as the Colonial Secretaryship; any public officer except the holders of certain judicial offices may sit if elected, but the acceptance of an office of profit after election vacates the seat. From the voter the small qualification demanded is the ownership of land of a total value of five pounds or the occupation of a house of a low rental value.<sup>1</sup>

In procedure the House of Assembly resembles the Assembly of Barbados, except that there is no Executive Committee to be responsible for the introduction of money votes. The ancient and anarchical prerogative of the initiation of money votes by private members has been retained, and is frequently employed, though its use has been voluntarily limited by standing orders which the Assembly may at any time rescind. At the opening of each financial year the Governor transmits to the House the estimates in one document; they are then discussed in Committee of the Whole on finance; in this Committee it is 'competent for any member to move the insertion of an item', and the same applies on the third reading of the Appropriation Bill; such items, however, must not be for any public work; 'items for public work must be based either on an estimate submitted by the Governor or on the recommendation of a Select Committee'.<sup>2</sup> As in Barbados, the Assembly exercises the financial rights of the House of Commons, and the Legislative Council can only approve or reject the money bills sent up from the lower house.

Besides its control over taxation and the estimates, the Assembly has acquired further powers over the administration by means of Administrative Boards. The New Providence Board of Works, for example, consists of seven members appointed by the Governor, of whom four must by statute be members of the Assembly who hold no public office, and the Board of

<sup>1</sup> Franchise regulated by Acts 9 & 10 Geo. V, c. 5 and 58 Vict. c. 12.

<sup>2</sup> The extracts are from the *Manual of Procedure, General Assembly* (1907).



Education has twelve members, at least five of whom must be Assemblymen. There are similar boards controlling the chief administrative departments. These boards have as their chairmen the permanent officials mainly concerned, and the grants of money made by the Assembly are made, not to the King or to the Governor, but to the particular board by which the item is required, with the maximum expenditure set out under detailed heads. Through the presence of its members on these boards, therefore, the Assembly exercises a continuous influence in all departments of the administration.

The Assembly meets annually at Nassau in regular session, generally at 7.30 in the evening. Elections in the Bahamas appear to arouse a good deal more interest than they do in Barbados, and the franchise is so low that it is within reach of almost all the adult male inhabitants. The size of the voters' roll has been increasing; in 1888 it contained 6,213 names, at the 1903 election 11,670, and at the 1910 election 13,968 in a population of 55,000. In 1903 five electoral divisions were uncontested, and in the ten contests 4,178 votes were cast out of 8,369 on the register in the divisions concerned. In 1910 there were six uncontested divisions, and in the remaining nine 4,650 voters out of 10,823, or 43 per cent., cast their votes.

A charge which has often been brought against the Assembly is that it is a clique made up of the white inhabitants of Nassau, 'a family gathering of Nassau whites, nearly all of whom are related to each other, either by blood or marriage'.<sup>1</sup> In the existing absence of transport facilities between Nassau and the out-islands, it is difficult to find residents from outside points who are able to sit in the Assembly for sessions which as a rule are by no means brief, and in consequence inhabitants of Nassau are almost always chosen. The centralization of the government of the group at New Providence is very pronounced, and it is accentuated by the very irregular communications with many of the other islands, especially those farthest from Nassau, such as Grand Bahama and Inagua, in which, as a result, most

<sup>1</sup> Powles, *The Land of the Pink Pearl* (1888), p. 41. This book is chiefly a bitter attack on the administration of the Bahamas, based on the author's judicial experience there. The coloured population has now a more numerous representation in the Assembly.

of the resources of civilization are lacking.<sup>1</sup> In the absence of great issues the government of the islands seems to work fairly smoothly, but financial difficulties have in the past prevented the administration from carrying out certain urgent duties, especially in the prevention of disease, towards the inhabitants of the more remote islands. There leprosy and other tropical ailments are common and almost unattended, and it is to be hoped that some of the new-found prosperity of the Treasury will be turned to the improvement of the conditions of life among the most neglected citizens, as well as to the creation of new attractions for the thirsty American tourist.<sup>2</sup>

### § 3. *Bermuda*

In Bermuda the political history of the eighteenth century is the usual record of struggles between the Governor and the Assembly. The form of society was, however, very different from that in the West Indian colonies. The nineteen square miles of broken territory of which the colony consists are not on the whole productive, and have never yielded sufficient produce to support the inhabitants. It was as a trading centre that the colony was then of importance; Bermudian schooners were to be found up and down the American coast and throughout the Caribbean Sea; and the control of the salt-ponds of the Turks Islands, then treated as a dependency, gave to the Bermudians the command of a commercial staple. With the removal of commercial restrictions and the growth of the supremacy of steam over sail, the island commerce waned, but a compensation for the decline in trade had been provided in the beginning of the nineteenth century by the establishment of a naval station and a convict prison in the islands. In such a colony the conditions did not exist which led elsewhere to the development of a slave society of the plantation type. Slaves there were from earliest times, of negro stock much intermingled with Indian and white blood, but they were relatively few in number, and emancipation caused no great hardship.<sup>3</sup> Thence to the present time there is little

<sup>1</sup> There are about thirty inhabited islands.

<sup>2</sup> A careful and detailed account of tropical diseases in the Bahamas in 1905 is given in *The Bahama Islands*.

<sup>3</sup> The total number of slaves at emancipation was 4,200, about 40 per cent. of the population.



to tell. The islands have grown to a new prosperity as a winter resort, a prosperity now being increased by the same causes which are operating in the Bahamas ; a trade in early vegetables with New York has been developed ; and a British garrison still guards the naval dockyard.<sup>1</sup>

The Assembly has from the first introduction of representative institutions in 1620 been composed of four representatives from each parish ; <sup>2</sup> this gives the large total of thirty-six members in a population of some twenty thousand. The franchise is still regulated by the same Act as that by which the slaves were emancipated ; this raised the property qualification required for the vote from the ownership of a freehold of a total value of £24 to one of £60, and increased the freehold necessary for membership from £120 to £240.<sup>3</sup> Candidates are also required to have the further qualification of five years' residence in the colony. The franchise is still bound up entirely with the ownership of land, and in that respect is more narrowly restricted than in any of the West Indian colonies. Political passion does not run high, though this was not always the case in the past. An observer, writing in 1860, records :

'It is utterly impossible for any one unacquainted with Bermuda to form an idea of the length to which party spirit is carried. . . . A tory and a radical are as distinct, and have as little in common between them, as if they were men not only of different countries, but of countries hostile to each other.'<sup>4</sup>

The House is now elected peacefully enough for a five-years' term.<sup>5</sup> There is a large proportion of unopposed returns, but in the contested districts the percentage of voters is higher than it is in the West Indies, and this is perhaps to be expected in a colony in which one-third of the people are white in colour. At the election of 1918 there were on the register 1,413 voters

<sup>1</sup> The Governor of Bermuda is always a General Officer in the army ; he is paid by the Imperial Government as Commander of the station.

<sup>2</sup> In 1687 the first Assembly under the Crown passed an Act to reduce the representation to two for each parish, but through some oversight the Royal Assent was not given (as was then necessary), and the Act lapsed. Lefroy, ii. 568.

<sup>3</sup> Act 2 of 1834. It is interesting to note, as indicative of the distribution of land, that 570 white and 161 coloured citizens were qualified as candidates in 1919.

<sup>4</sup> T. L. Godet, M.D., *Bermuda* (1860), p. 45.

<sup>5</sup> Term reduced from seven to five years by Act 12 of 1918.

(934 white and 479 coloured), and in four electoral divisions 364 voted out of 458 on the register. The retention of the parishes as constituencies has resulted in a very uneven distribution of voters; in 1918 Smiths with 63 voters on the register and Pembroke with 416 each returned four members.

The Legislative Council is a comparatively recent creation, being the only important constitutional change since the abolition of the Bermuda Company in 1684. Bermuda clung longer than any of the West Indian colonies to a single Council; it was only in 1888 that the Council was divided into a Legislative Council, now composed of the Chief Justice, two other official and six unofficial members, and an Executive Council made up at present of four official members and two others who represent the Government in the House of Assembly, and are selected from the members of that body.<sup>1</sup>

It is strange to find that, in accordance with ancient practice, the numerous legislators of Bermuda are in receipt of pay, a custom found nowhere in the West Indies. Each of the forty-five Councillors and Assemblymen is entitled to draw eight shillings for each day's attendance, not a very generous remuneration perhaps, but sufficient to have caused in the past whispers that sessions were prolonged unduly.<sup>2</sup> There is plenty of legislative activity; the parliamentary session lasts usually from November to June, and results in a prodigious output for so small a colony; in 1911 forty-nine Acts were passed, in 1914 fifty-seven Acts, and in 1920 forty-four Acts of a total length of 220 pages.

The Assembly has restricted its financial privileges to the limited extent of allowing the executive to present the estimates to it, but this procedure it can alter at will; the right of private initiative in finance, however, though still retained, is little used. The Bermudians take great pride in the antiquity of their political institutions, the rights of the House are jealously guarded, and any proposals for change are strenuously resisted.<sup>3</sup>

A comparison between the methods of financial procedure

<sup>1</sup> The Council was divided by Letters Patent of 19 Jan. 1888; see also Instructions of 25 Nov. 1914 and Act 1 of 1888.

<sup>2</sup> In the estimates for 1920-21 'fees' for this purpose amounted to £1,230.

<sup>3</sup> The 'House' and the 'Peers' appear to be the names commonly in use for the Assembly and Council.



in the three last surviving examples of the old representative system is interesting. In Barbados the functions of the Executive Committee, and in the Bahamas the system of Administrative Boards, have already been examined. In Bermuda neither of these forms of controlling expenditure has been adopted. The practice in common use is for the Assembly to prescribe in minute detail, in the various acts authorizing expenditure, the exact method in which the money may be spent, and to limit the validity of all such acts to a short period. If one turns to the legislative output of 1919 one finds that the Governor wanted a messenger, and that in consequence the Assembly proceeded to pass an Act as follows: 'Whereas it is expedient to appoint a messenger for his Excellency the Governor, Be it therefore enacted by the Governor, Legislative Council, and Assembly of the Bermudas or Somers Islands as follows: 1. The appointment by the Governor of a fit and proper person as "Governor's Messenger" is hereby authorized.' 2. The Governor is graciously allowed to prescribe his duties. 3. A uniform may be given to him, but it must remain public property. 4. He is to be paid £60 a year, rising to £75. 5. The law is only to continue in force until 31st December 1922, at which date the Assembly may have an opportunity of reviewing its grave decision. These legislative minutiae are equalled in other laws passed in the same year; a second prescribes exactly where and how a public dredger is to work, and a third how many police may be stationed at each post in the islands.<sup>1</sup> A great proportion of the laws of Bermuda are passed for a short period of years only, and this fact in part accounts for the prodigality of legislation. These methods of doing business do not leave much to the discretion of the executive.

In each of these constitutional survivals from another age the Assembly can be seen reaching out on a petty scale, just as the House of Commons once reached out on a large scale, to assert through its control over finance its control over the

<sup>1</sup> Acts 18, 14, and 19 of 1919. In 1920 two different sets of postage stamps were issued in Bermuda to commemorate the same event, the tercentenary of the introduction of representative institutions; the design for the first set was approved and ordered by the Governor, but to this the Assembly took exception, and caused a second series to be issued which was more to its liking.

executive government ; and in each the process has been checked without that definition of clear lines of responsibility which has marked the constitutional development of Great Britain and the Dominions. The Governor remains responsible for the good government of his colony to the Colonial Office ; if his and the home Government's conception of what constituted good government were once more to differ radically from that of the local Assembly, as it did over slavery, the same deadlock would arise from the same constitutional cause. The constitution of the United States is in many ways a vast development of the old representative system ; the separation of powers, at any rate of legislature and executive, had been in force in America for many years before Montesquieu proclaimed it as an ideal doctrine. But in the United States the chances of deadlock are in part, though, as every one realizes since the Treaty of Versailles, not wholly, avoided by the responsibility of both legislature and executive to the same body, the electorate, which at least once in four years has an opportunity of seeing that the policy of President and Congress shall agree. In these three colonies such an opportunity is lacking, for the executive is out of the control of the electorate and under that of its masters in Downing Street, if ever they choose to interfere. If the present peaceful state of affairs is disturbed, the machinery is bound to stick. As it is, with no great issues in sight, the Assemblies carry on much as they please, and there seems to be a very good chance of these anachronisms attaining an even more venerable antiquity.



## VI

### PUBLIC MEETING GOVERNMENT

#### § 1. *British Honduras*

ALONGSIDE the colonies which were definitely included in the British colonial empire there grew up in the West Indies some small communities the members of which bore allegiance to the British Crown, but which were for various reasons never dowered with the full paraphernalia of colonial government. Of these the most important was the settlement of Belize, which has now become the colony of British Honduras. Situated on the mainland of Central America, it was in the midst of territories over which Spanish sovereignty was undisputed, although Spanish occupation was never made effective. Between 1660 and 1665 British vessels began to resort regularly to various points in Yucatan and on the Bay of Honduras, for the purpose of cutting and carrying away the valuable logwood which dyed the textiles of Europe. By 1671 forty ships were employed in the trade, and the Governor of Jamaica found it a useful channel into which to direct the embarrassing energies of the buccaneers.<sup>1</sup> Despite the active opposition of Spain and the coolness of their own Government, due to its unwillingness to incur Spanish hostility on their account, the pioneers clung to their foothold at Belize,<sup>2</sup> and there organized for their regulation a simple and democratic polity.

Although by the Anglo-Spanish Treaty of 1670, in which Spain recognized British sovereignty over Jamaica, Spain ceded to Great Britain all lands in the new world then occupied by

<sup>1</sup> See Beer, *Old Col. System*, ii. 64-77, for an account of the beginnings of the logwood trade. Logwood was even the medium of exchange during the eighteenth century, just as sugar, tobacco, cotton, and rum were in some of the other colonies. A currency was not established until 1801. Gibbs, p. 72; *Almanack for 1828*, p. 18.

<sup>2</sup> Actually on the islet of St. George's Cay; Belize was not built on its present site until after 1786.

British subjects, the rights of the 'baymen' were neither upheld by Britain nor respected by Spain. The British Government, in spite of exhortation from the Governors of Jamaica, refused to make any claim under the 1670 treaty for many years, and indeed took steps to suppress the logwood trade with a vigour varying with the intensity of its desire to remain on good terms with Spain.<sup>1</sup> British rights under the treaty in fact were very doubtful, for there had been no regularly established settlement before 1670. In 1717 the outlying posts were broken up by the Spanish, and the baymen were concentrated at Belize. In 1732 they were expelled by the Spanish, but returned of their own volition; without recognition from their own Government they themselves defended their title. The home Government, however, gradually relinquished its attitude of hostility to their endeavour, and from the beginning of the eighteenth century began to assert that they had at least the right to cut wood under the treaty, if not to found a colony. Thus the matter rested, a source of frequent friction with Spain, until the Peace of Paris in 1763.

By the Peace of Paris Spanish sovereignty was recognized by Great Britain over the logwood area, but in return Spain guaranteed the right of the baymen to cut logwood, provided that they did not erect fortifications or found permanent settlements.<sup>2</sup> This arrangement naturally proved hard to carry out, and the friction continued. In the Treaty of Versailles in 1783, and in the supplementary Convention of London, a more accurate definition was attempted, boundaries were agreed on, and the inhabitants were given permission to cut mahogany as well as logwood. But the sovereign rights of Spain were clearly recognized, and the independent wood-cutters were told that they must not 'meditate any more extensive settlements or the formation of any system of government, either military or civil', except such as might be agreed on by the contracting parties for

<sup>1</sup> The British Government did not assert its rights, but it did not renounce them. 'The matter was with characteristically English common sense not pushed to any logical conclusion, but for the time being was left in abeyance.' Beer, *Old Col. System*, ii. 77.

<sup>2</sup> Article XVII provides for the destruction of all British fortifications there, but Spain undertakes that the baymen shall be free to carry on 'their occupation of cutting, loading, and carrying away logwood'.



the maintenance of order.<sup>1</sup> Spanish commissioners were sent to see that no cultivation was being undertaken and no forts erected, and their visits naturally much disturbed the settlement. In 1798 the Spanish attacked the settlement with a strong naval force; this was routed by the valour of the small group of settlers; and henceforth it has been held by some that the Spanish claims were extinguished, and the territory won for Britain by right of conquest.<sup>2</sup>

The question, however, cannot be dismissed so easily. In all the treaties made with Spain during the Napoleonic wars no claim to sovereignty over Belize was put forward by Great Britain. The Colonial Office so lately as 1846 regarded the British title as very uncertain, and appeared to think that the provisions of the Convention of London of 1786 were still in force. The Government of the United States cast grave doubts on the validity of British occupation in the acrimonious discussions which succeeded the negotiation of the Clayton-Bulwer Treaty of 1850. It was not until 1862 that the British Government asserted its sovereignty in an unmistakable manner by declaring the settlement a colony, and this was protested against as recently as 1882-3 by the American Government.<sup>3</sup> To the present day there is some ambiguity in the British title to British Honduras, so far as international law is concerned; practically, however, an occupation which has been almost uninterrupted for two hundred and sixty years seems to provide a valid claim.<sup>4</sup>

<sup>1</sup> *British Honduras* ('Peace Handbooks,' 1920), pp. 8 ff.; Gibbs, pp. 38 ff.; *Almanack for 1828*, pp. 83 ff. The whole question of British claims in Central America to the present day is discussed at length in M. W. Williams, *Anglo-American Isthmian Diplomacy* (Washington, 1916).

<sup>2</sup> The population was estimated at 600 to 700 in 1798, including slaves. Williams, *op. cit.*, p. 7. Gibbs, however, estimates the population in 1806 at 3,700.

<sup>3</sup> Williams, *op. cit.*, pp. 36, 102-9, 142-3, 272.

<sup>4</sup> The international status of British Honduras is a question too complex to discuss adequately in the space at my disposal. The brief account in the text only touches on some of the more important points in so far as they concern the territory which is now British. In the eighteenth century British activities were not confined to this region. The kings of the Indians of the Mosquito Coast to the south-west had long professed friendliness to the British, and in the latter part of the seventeenth century one of them made over his country to Great Britain. British settlers arrived on the mainland and the Bay Islands, and after 1739 Superintendents were sent there from

This lengthy introduction is necessary in order to explain how it was that a unique form of government was organized by the baymen during the period when their international status was a matter of dispute. The early records of the settlement are scanty; it is not to be expected that a group of adventurers in search of valuable timber should leave elaborate written memorials behind them; and such records as there were, here as in many other West Indian colonies, have suffered from the havoc of war and tempest. The earliest settlers were nominally under the jurisdiction of the Governor of Jamaica, but lived in a state of real independence, for his authority 'having been imperfectly defined, was seldom acknowledged by the settlers'.<sup>1</sup> It appears that by about 1728 they had instituted an elective magistracy of about seven to administer justice and control finance. One of these magistrates was chosen Superintendent of the settlement, and these were the only officers of the administration. The whole machinery of government was created each year in a public meeting of the free inhabitants, at which the magistrates were elected and laws were passed. The magistrates were not paid for their services, and the administration of the few hundred wood-cutters and slaves cannot have been a very complicated business. Any attempt of officers of the Jamaica Government to exercise authority seems to have had little effect beyond that of annoying the settlers.

After 1763, when the Spanish admitted that the baymen had the right to remain on the coast for limited purposes, the inhabitants became even more independent in their attitude, and made the enforcement of the provisions of the treaties of 1763, 1783, and 1786 almost impossible. In 1765 Admiral

Jamaica to represent the authority of the Crown. British protection over the Mosquito Indians did not entirely disappear until 1894, and from 1852 to 1859 the Bay Islands were a short-lived British colony. Britain earlier also had claims in Yucatan. A sufficiently complicated situation was further entangled by the revolt of the Spanish colonies at the beginning of the nineteenth century, by the American assertion of the Monroe Doctrine, and by the growing interest of the United States in Central American affairs in the years preceding the Civil War. The ambiguous Clayton-Bulwer Treaty for a time only made matters worse. British retirement from the Mosquito Coast and the Bay Islands in 1859 and 1860 settled the main outstanding differences and indirectly consolidated the British position in Honduras.

<sup>1</sup> Bryan Edwards, i. 119 n.; Gibbs, pp. 34-5.



Burnaby was sent to Belize from Jamaica on an official mission, and caused much local gratification by recognizing the existing form of government through the elected magistracy, and by codifying the laws passed by the annual public meetings, thus giving a measure of authoritative recognition to the democratic local government.<sup>1</sup> Though the ensuing years were filled with difficulties and dangers, caused by the persistent hostility of Spain to which the scanty protection of the rights of the settlers by treaty gave colour of legality, the community struggled on. In 1786 the British Government complicated the simplicity of the local government by sending a Superintendent to live at Belize, and since that time, except for the period 1791-7, the chief executive officer has always been sent from abroad.

The mark of the unprecedented conditions of its early development was left on the form of government until well past the middle of the nineteenth century. The informal public meeting gradually took shape as a legislative assembly. Membership in it was for life, with the qualification of the possession of £400 currency. All so qualified in the community were not necessarily members, for there was a preliminary election at which candidates had to be proposed by a member and to receive at least twenty-six votes. The total number of members was unlimited, and there were generally between fifty and seventy. The Public Meeting (that was its official name) met as of right every four months without being summoned by the representative of the Crown, and proceeded to pass laws and to discuss finance without let or hindrance.<sup>2</sup> The Superintendent had the power of veto. The elected magistracy also survived the arrival of the Superintendent: 'Their Worships are the counsellors of Her Majesty's Superintendent, the Guardians of the Public Peace, the Judges of all the Lower Courts. . . . They have the management of the Public Funds, and have a control over the Public Treasurer, and sign all orders for the issue of money.'<sup>3</sup>

<sup>1</sup> *Almanack for 1828*, p. 65; Gibbs, p. 40.

<sup>2</sup> Gibbs, pp. 87-8; *Almanacks for 1828 and 1839*.

<sup>3</sup> *Almanack for 1839*. There is an interesting account of a session of the Court at Belize in 1839 in J. L. Stephens' *Incidents of Travel in Central America, Chiapas, and Yucatan* (1842), i. 18-19. Stephens was an American

They were still elected annually by the inhabitants, and were required to have lived in the settlement for three years, and to be possessed of property worth £500.

It is easy to see that, with a government so republican in nature, the position of the Superintendent was not an easy one. The legislature and the magistrates, who fulfilled the most important executive duties, were not amenable to his control, and, if his instructions enjoined a policy distasteful to the insubordinate inhabitants, he had no means of enforcing his will. Before the office of Superintendent was instituted there had been a simple system of responsible government; this harmony was destroyed on his coming by his responsibility to an external authority. In consequence successive Superintendents pursued a vigorous policy of restricting the powers of the magistracy and the Public Meeting, and in this they had the backing of their superiors in Jamaica and in London. Once the British Government had decided that it was going to assert sovereign rights over the territory, it refused to recognize the validity of the local institutions, of which Burnaby had approved when the settlers were aliens clinging to a precarious foothold in the Spanish dominions. Despite spirited opposition to every change, more power was gradually concentrated in the hands of the Superintendent. After 1830 subjects for debate in the Public Meeting had to be notified to and approved by the Superintendent; in 1832 the election of the magistrates was abolished, and, though the office was retained, its holders were nominated annually by the Superintendent. The Public Meeting, having its origin in no instructions or charter from the Crown, was only allowed to exist on sufferance; in 1842 the Governor of Jamaica instructed the Superintendent that 'the Public Meeting is authorized by her Majesty's Government to continue to exercise its legislative powers, harmoniously, if it can, with the executive, each taking usage as the rule by which their respective powers are to be defined'; but in 1843 a new Superintendent informed the Public Meeting: 'I am instructed to impress on you that the Public Meeting at Honduras has no right, strictly speaking, to legislate, though it may with the emissary to Central America. He found no lawyer in the colony, but he has nothing but praise for the justice and dignity of the proceedings.



consent of the Superintendent make rule for the conduct of the settlement.'<sup>1</sup> The legal basis of the Public Meeting, however, has been tacitly acknowledged by the Crown, since no attempt has been made to pass laws for the colony in any other way than by the Public Meeting or the successors which were created by act of the Public Meeting; and since the colony is now included in the list of those for which the Crown has no right to legislate by Order in Council.<sup>2</sup>

The abolition of slavery was carried through without much difficulty, for slavery had here taken a distinct form. The slaves were woodcutters for the most part, leading an isolated life in the forests alongside their masters, not toiling like cattle in the fields; there was already a regular scale of pay for extra work beyond specified limits; and the transition to wage-labour offered no great difficulties. The motion that apprenticeship should be ended in 1838 was significantly put before a general meeting of proprietors before it was submitted to the Public Meeting, since the Superintendent thought that the latter body 'as at present constituted might be averse to take upon itself the liability of passing a measure of such general application, as its authority does not rest on that legal basis enjoyed by other deliberative bodies'.<sup>3</sup>

Gradually the constitution was brought into line with those of other colonies. In 1840 an Executive Council was formed of the leading officials. The unpaid magistracy disappeared. Then in 1853 the Public Meeting renounced its powers in favour of a Legislative Assembly of eighteen elected and three nominated members, with the franchise restricted by a low property qualification.<sup>4</sup> In 1862 the settlement became a colony, and the Superintendent a Lieutenant-Governor under the Governor of Jamaica. It was not until 1884 that the connexion with Jamaica was severed, and British Honduras became a separate colony. The inhabitants began to spread over the country from Belize, though the legislature was chosen solely by and from the

<sup>1</sup> For changes from old forms between 1820 and 1845 see Gibbs, pp. 86-107; *Almanack for 1839*; Fowler, *Narrative of a Journey across the unexplored portion of British Honduras* (Belize, 1879), p. 39.

<sup>2</sup> *Colonial Regulations*, ch. i, § 1.

<sup>3</sup> *Almanack for 1839*; this gives a vivid account of the emancipation festivities.

<sup>4</sup> Ordinance 16 Vict. c. 4.

citizens of the capital, who thus retained exclusive political power. The Assembly for some years was torn by party struggles between the landed and the commercial interests; the dominant party did not scruple to change the burden of taxation in its own favour; there was continual friction with the executive; and by 1870 the Assembly, wrote the Lieutenant-Governor, 'had become weary of the possession of so much power, had come to see how frequently that power was wasted, and how apt it was to be misapplied'.<sup>1</sup> In that year by a local Act, which was proposed by some of the elected members, the Crown was empowered to nominate the members of the legislature, with the proviso that there must be at least four unofficial members, to hold office during pleasure, and to sit under the presidency of the Lieutenant-Governor.<sup>2</sup> So ended the history of a free democracy set up by a few hundred sturdy adventurers in the lands of Spain.

### § 2. *The Cayman Islands, &c.*

Another example of the growth in the British Dominions of a primitive and unofficial type of democracy has survived to the present day in the Cayman Islands. These are a group of three small islands in the northern Caribbean, lying about 200 miles to the north-west of Jamaica and the same distance to the south of Cuba. Grand Cayman, the seat of government and the habitation of a large majority of the population, is separated from the other islands, Little Cayman and Cayman Brac, by seventy-five miles of sea. The islands are low, wooded, and coralline, with little land suitable for agriculture. The chief industries of the inhabitants are the picturesque occupation of turtle-catching, and the construction of schooners. They are much subject to storms, and a recent Report complains that

<sup>1</sup> Dispatch to Governor of Jamaica printed in *Report for 1871*, in P. P. 1873, vol. xlviii. In 1868 there were only 85 registered and 51 actual voters to return 18 members (*Report for 1869*, in P. P. 1871, vol. xlvii). An excellent description of the colony is given in the *Report for 1858*, in P. P. 1860, vol. xlv.

<sup>2</sup> Chapter 2 of the *Consolidated Laws* (1914) governs the present organization of the legislature. The minimum number of unofficial members was raised by statute to five in 1892. There have been several attempts to revive the elected representation; for one of them see correspondence printed in C. 2978 (1881).



'hurricanes would appear to have become almost an annual event'.<sup>1</sup> The proportion of white inhabitants is larger even than in the Bahamas; out of a total population of 5,253 in 1921, 38 per cent. were returned as white, though the accuracy of the classification is open to doubt. But on questions of colour the islands are unusually quiescent.

The constant storms and the prevailing illiteracy of the people have prevented the survival of any early local records. It is known that they were used as a place of resort by vessels in need of provisions, on account of the vast number of turtle which frequented their coasts. After the capture of Jamaica in 1655, Penn 'in this distress sent three ships to the Caymand isles to take in a loading of turtle',<sup>2</sup> and it is possible that they were first settled by deserters from this expedition and stray recruits from the ranks of the buccaneers.<sup>3</sup> In any case, they are mentioned as British in the instructions to Lord Windsor as Governor of Jamaica in 1662, and in 1672 a proclamation was posted up on the Jamaica coast by the Spanish admiral in West Indian waters challenging Sir Henry Morgan to meet him in open fight, and beginning as follows :

'I, Captain Manuel Rivero Pardal, to the chief of the squadron of privateers in Jamaica. I am he who this year have done that which follows. I went on shore at Caimanos, and burnt 20 houses, and fought with Captain Ary, and took from him a catch laden with provisions and a canoa.'<sup>4</sup>

It is thus evident that the islands were settled soon after the taking of Jamaica; but beyond the records of some grants of land which are preserved in the Jamaica archives, and the knowledge that Grand Cayman has been continuously occupied, and that its people admitted a vague political connexion with Jamaica, the islands have no history until late in the eighteenth century. The few settlers who came with their slaves were

<sup>1</sup> *Report for 1916-17* (Cd. 8973-8, 1918), p. 2.

<sup>2</sup> Long, *Jamaica*, i. 240.

<sup>3</sup> The principal—indeed almost the only—authority for the history of the islands is G. S. S. Hirst, *Notes on the History of the Cayman Islands* (3 pts., Jamaica, 1910-12).

<sup>4</sup> Quoted in Haring, *Buccaneers in the West Indies in the Seventeenth Century* (Yale, 1910), p. 161.

probably increased by the survivors from shipwrecks, for the islands' reefs are dangerous, and their natural perils were judiciously exploited by the inhabitants.

From about 1750 the islands appear to have had a self-styled Governor, whose authority was perhaps reinforced by a justice's commission from Jamaica. In his person he appears to have concentrated the authority of executive and legislature, of judiciary and commander-in-chief. There were no taxes, no officials, no schoolmasters, no clergy, and consequently no marriages except for the few who could afford to travel to Jamaica for the purpose. Early in the nineteenth century a more complicated form of government replaced this simple state. As at Belize, the community grew accustomed to meet together for the purpose of passing laws, and executive authority was represented by magistrates commissioned from Jamaica with a Custos at their head. The enacting clause of a law of 1823 reads: 'At a public meeting the thirteenth day of December in the year of Our Lord 1823, it was agreed by the Magistrates and principal inhabitants of said Island that . . .'<sup>1</sup> The principal inhabitants seem to have been any free men who chose to attend and record a vote. In 1834 Lord Sligo, then Governor of Jamaica, was inquisitive enough to visit these forgotten islands—he was the first Governor to do so—and he reported that he found the people 'without laws of any sort, without any form of government, without any person with any title of pre-eminence', but this was an exaggeration.<sup>2</sup>

The islanders were becoming aware of their deficiencies. They had even received a clergyman in 1831, and in 1838 they addressed a memorial to the Queen in Council: 'We have never been duly recognized whether as immediately under the protection of Britain or as a Dependency of Jamaica; consequently no laws were ever framed for our government but such as were determined by our own people.' They went on to complain that their slaves had been freed by the Governor of Jamaica—this was the purpose of Sligo's visit—without compensation, because they failed to comply with the law of registration through ignorance of its existence; 'unnoticed and disregarded by others, we were literally "a law unto ourselves"'. They conclude by

<sup>1</sup> Hirst, p. 214.

<sup>2</sup> *Ibid.*, pp. 212–13.



asking for special consideration, and that clergy and teachers should be sent.<sup>1</sup> Their plea, however, does not appear to have been successful.

It was not until 1863 that the relationship of the islands to Jamaica was finally determined. It was then settled by an Act of Parliament by which the islands were placed definitely under the control of Jamaica.<sup>2</sup> All laws passed by the local legislature were to be confirmed on the approval of the Governor of Jamaica; for the future the Jamaica legislature was to have power to legislate for the islands, but this power it might delegate to a local body, and the existing local assembly was to continue to act unless the Jamaica legislature provided otherwise. All its laws, however, had to be sanctioned by the Governor of Jamaica before coming into force, and where there was no local law which applied, Jamaica law prevailed. This Act is still in force, but the islands have been left very much to themselves, and it is only on rare occasions that the Jamaica legislature has troubled itself with its obscure dependency—perhaps too rarely, for an enlightened local opinion can hardly be expected in the circumstances.

The local legislature assumed its present form early in the century.<sup>3</sup> Instead of the 'principal inhabitants' meeting with the Justices of the Peace to pass laws at the Court of Session, delegates called vestrymen were chosen from the various districts to serve for two years as representatives, and these, together with the Justices, make up the body known as the 'Justices and Vestry', meeting annually on the last Wednesday in November.<sup>4</sup> The elections to this legislature are governed by what must surely be the simplest electoral law in existence, for it is only an instruction to the magistrates to 'call the people together and proceed to elect vestrymen to serve for two years'.<sup>5</sup>

<sup>1</sup> Hirst, pp. 174-8.

<sup>2</sup> *The Cayman Islands Government Act*, Imp. Act 26 & 27 Vict. c. 31.

<sup>3</sup> For much information regarding the present conditions in the Cayman Islands I am indebted to the kindness of the Hon. H. H. Hutchings, the Commissioner of the Islands.

<sup>4</sup> The Commissioner may convene the legislature for other sittings, and there are generally several meetings a year.

<sup>5</sup> From an Act passed in 1832, now listed as Act 3 of 1865; the same formula is repeated in Act 8 of 1889 for the Lesser Caymans. These latter were only

The franchise is given to all male tax-payers, and as all men of eighteen and upwards have to pay a poll and road tax, there is universal manhood suffrage, and votes may even be recorded by men under twenty-one.<sup>1</sup> There is no register of voters, and no special qualification for membership. The vestrymen are twenty-seven in number, and are chosen from seven divisions returning between two and five members each. In addition about fifteen Justices of the Peace sit by reason of their magistrates' commissions. This gives a total of about forty-two legislators for a population of five and a quarter thousand, or one for every 125 of the population.

The elections approach the ludicrous. Candidates are nominated by the Justices of the Peace appointed to conduct the election; they generally put forward the sitting members, and an equal number of others. Voters must vote for the full number of representatives, and voting is not secret. It is only with great difficulty that any voters are brought to the poll at all in some districts. In 1918 the total poll recorded was 118, without unopposed returns on account of the voting system, and in one district five members were returned by seven voters. The average attendance at meetings is about twenty-five, and discussion is said at times to become acrimonious. Attempts to reform the legislature have so far met with no success; doubtless in the interests of efficiency reform is required, but it is pleasant to think that still the 'Legislative Assembly of the Justices and Vestry' comes together each year at the Court House to pass its simple budget and make an occasional law.

The executive, however, has been brusquely modernized. For long the Custos was head of the polity, and his position was given statutory confirmation so lately as 1889. He was assisted by a Treasurer who was paid a percentage of his receipts, and by a Clerk of the Courts who combined in his person the dignities of the rest of the civil service. The need for a permanent paid head of the executive, however, became apparent, and in 1898 the Custos was superseded by a Commissioner appointed by the

settled in 1833, though there are indications that they were temporarily occupied a century earlier.

<sup>1</sup> The franchise is regulated by custom, and is not to be found in any statute.



Governor of Jamaica, who acts as Custos, Treasurer, and Collector-General, and who has also for a time been the Government Medical Officer.<sup>1</sup>

In some other small islands settled by stragglers a similar form of government has in the past been evolved. Thus the Virgin Islands, British since about 1666, were until 1773 governed by locally chosen representatives with a Deputy Governor. In that year the inhabitants actually bought from the Crown the right to set up a Council and Assembly of the regulation type by granting the 4½ per cent. export duty paid by their neighbours, and established proudly a tattered caricature of King, Lords, and Commons which lasted many years.<sup>2</sup>

In Anguilla, just to the south of the Virgin Islands, a government similar to that in the Caymans lasted to more recent times. The island was colonized from St. Kitts about 1650; in 1688 it was raided by 'a party of wild Irish', and temporarily evacuated. In the eighteenth century its inhabitants were farmers, not cane-growers, 'and this it is that enables them to live in the old patriarchal way, every man being a kind of sovereign in his own family, and no other government there is in Anguilla'.<sup>3</sup> There was eventually created a vestry as legislature. In 1865 the government was in the hands of a Stipendiary Magistrate, paid by the Imperial Government, assisted by a vestry made up of the rector and eleven elected members; the island was also represented by one member in the St. Kitts Assembly.<sup>4</sup> Anguilla retained in part its own laws and tariff until 1883, when its administration was completely fused with that of St. Kitts-Nevis.<sup>5</sup>

The story of these scattered fragments of British territory, lying for long years outside the sphere of official colonial policy, is of no great importance in the constitutional history of the

<sup>1</sup> The office was created by Jamaica Law 34 of 1898.

<sup>2</sup> Bryan Edwards, i. 459, Woodcock, *Laws and Constitution of the British Colonies in the West Indies* (Grenada, 1838), pp. 11-12; *Letters from the Virgin Islands* (Anon., 1843), p. 141; Southey, ii. 165-6, 320, 418-19, 428. See also pp. 72-3 above.

<sup>3</sup> Postlethwaite, *Dictionary of Commerce* (1774), ii, article on 'Sugar Colonies'.

<sup>4</sup> St. Kitts' *Report for 1865* in P. P. 1867, vol. xlviii.

<sup>5</sup> St. Kitts Act 8 of 1883; *Report of Royal Commission of 1884* (C. 3840-ii), p. 25.

West Indian colonies ; yet it has an interest of its own which makes no apology necessary for including it here. The spontaneous evolution of a form of settled government, with in British Honduras a considerable complexity of detail, by humble pioneers many of whom had been rude marauders of the sea, was not a discreditable performance ; and the survival in the Cayman Islands of a primitive type of legislature, the majority of which is chosen freely by and from all adult males, contributes an almost unknown example to the series of diverse constitutional forms to be found among the colonies of Great Britain.<sup>1</sup>

<sup>1</sup> This is perhaps as appropriate a place as any in which to give some account of the government of Barbuda, an island of the Leeward group lying to the north of Antigua, to which it is now joined as a dependency. It was settled, it is said, from St. Kitts by Warner in 1628. In 1685 it had a Deputy Governor (Beer, *Old Col. System*, ii. 43 n. 3). Towards the close of the century it was granted as a fief to the Codrington family for a rental of 'one fat wether sheep', and it remained until well on in the nineteenth century as the sole survivor of proprietary government in the West Indies. 'The Proprietary is the Honourable Christopher Codrington, Esq. ; and he puts in a Governor here, having the same Prerogative as the other Lords Proprietors in their several Jurisdictions in America' (Oldmixon, ii. 299). The island was never developed ; sugar-growing was forbidden by the terms of the tenure ; and it became little more than a game preserve, and a slave nursery for the Codrington estates in Antigua (Sturge and Harvey, *The West Indies in 1837*, pp. 378-380). In 1858 the Governor of the Leeward Islands reported that it was 'without laws, courts of justice, or government of its own', and that there 'it is not possible to punish even the most flagrant crime', although it was nominally attached to Antigua (*Antigua Report for 1858*, in P. P. 1860, vol. xlv). In 1859 an Act of the Antigua legislature (confirmed, as it was beyond the territorial jurisdiction of Antigua, by Imp. Act 22 & 23 Vict. c. 13) extended the laws of Antigua to Barbuda, and in 1860 Barbuda was annexed to Antigua (by Order in Council of 1 Aug.), and its anomalous condition was ended. The island still is almost entirely undeveloped.



## VII

### THE SEMI-REPRESENTATIVE CONSTITUTIONS

#### § 1. *British Guiana*

A MORE workable compromise between self-government and autocracy than was possible under the old representative system was devised in British Guiana and imitated in Jamaica when in 1884 elected representatives were restored to the legislature of that colony. Let it be said at once, however, that the compromise is only more workable because there is left in the hands of the Crown sufficient power to override the elected representatives in case of emergency, and that in the constitutions of both these colonies some grave defects may be detected.

The roots of the system in Guiana take us back far into the period of Dutch sovereignty, of which the names of the present legislative bodies, the Court of Policy and the Combined Court, are a continual reminder. To explain the sources of the constitution it is necessary to delve into a dull complexity of checks and balances, in which devices the Dutch appear to have revelled. The Dutch conceded the principle that representatives of local opinion should in some way be associated in the task of colonial government, but they filtered the forces of democracy so carefully by various stages of indirect election that hardly anything was left. A good example of their methods was afforded by the government of Berbice. This was the easternmost of the three Dutch provinces—Berbice, Demerara, and Essequibo—in what is now British Guiana. In 1732 a charter was granted to Berbice which provided for a council of six to assist the Governor; the members were in the first place to be chosen by the Governor from twelve candidates selected by all the colonists; all vacancies were, however, to be filled by the Governor from a double nomination of the Council itself, so that there was no election beyond the choice of the original twelve candidates.<sup>1</sup> This council endured until 1826, shortly before the government of Berbice was merged by the British with that of the other provinces.

<sup>1</sup> Rodway, i. 92-7.

The provinces of Demerara and Essequibo were administered by the Dutch West India Company, the directors of which never forgot that it was a trading corporation designed to earn dividends. To allow local opinion in their trading posts to have any serious influence on policy seemed to them unreasonable: the Company was there for trade, not to found colonies, and the interests of its members as merchants might conflict with those of the planters in its territories. In consequence the Company kept a firm hand on the local governments, both by means of careful directions sent out from Holland and by seeing that its agents in Guiana had full control. In each province a council known as the Court of Policy was set up. In Essequibo, at the beginning the more important station, a planter was first appointed to the Court in 1738, and the rest of the Court was made up of the Company's officers. About five years later a strange institution, which was to survive for a century and a half, was established as a means of choosing the unofficial representatives on the Court. This was the College of Kiezers or Electors. Its members were elected for life by the resident planters to perform the single duty of submitting to the Governor a double nomination for each vacancy which occurred in the post of unofficial Councillor of Policy. Thus popular election was reduced to the occasional choice of a Kiezer, when a member of the College died or left the colony; and the Kiezers themselves had to submit twice the number of names required to fill the rare vacancies in a post also held for life.<sup>1</sup>

It would be superfluous to follow the vagaries of Company rule under the Dutch. It suffices to indicate that the complaints against the West India Company became so insistent that its reform was undertaken by a joint committee of the States General of Holland and the Directors of the Company. This committee in 1787 issued a report known as the *Plan of Redress*, in which a change in the system of government was advocated.<sup>2</sup> Acting on its recommendations, in 1789 a single Court of Policy was set up for Demerara and Essequibo, composed of the Director

<sup>1</sup> For the institution of the Kiezers see Rodway, i. 102-3, 116.

<sup>2</sup> The *Plan of Redress*, and most of the other important constitutional documents of the period, are translated in *Papers relating to Constitutional Reform, British Guiana, 1845-6* (Georgetown, 1846).



General, three other officials, and four planters, two from each province ; one of these unofficial members retired every second year, thus giving an eight-year term, and their successors were selected by the College of Kiezers of each province ; the Kiezers, as before, were chosen for life ' by a plurality of voices of the inhabitants in possession of twenty-five negroes and upwards '. The duties of the Court of Policy were catholic ; it acted as both legislative and executive council, and as a court of law as well. It was, however, never given an exclusive right of legislation or of taxation. Laws of undoubted validity were still sent out ready-made from Holland and enforced in the courts ; there were two public treasuries in the colony, one of which, the ' Colony Chest ', was replenished by a poll-tax only, and was fully under the control of the Court of Policy, while the other, first the ' Company's ', then the ' State's ', and finally under British rule the ' King's Chest ', drew from all sources of revenue, but was entirely removed from the influence of the Court of Policy. This ' Chest ' was in effect a permanent revenue, levied at the discretion of the executive government.

In 1795 a new feature was added to the already complex system.<sup>1</sup> There were serious financial difficulties, as usual in the colonies of all nations in the West Indies, and the Governor wished to consult local opinion more directly than the diluted representation in the Court of Policy allowed concerning the means of raising supply for the Colony Chest. He therefore summoned two members from each College of Kiezers to his council chamber for the express purpose of giving him financial advice. In this action lies the source of the Combined Court of to-day. When in 1796 the British captured the colony almost at the invitation of the inhabitants, under an agreement not to disturb the " ancient laws and usages ",<sup>2</sup> the British Governor saw the utility of the innovation of the previous year. He issued a proclamation, which read in part : ' We have thought proper to adjoin to the College of Governor and Councillors of Policy,

<sup>1</sup> In 1792 the Dutch West India Company's charter lapsed, and Demerara and Essequibo became a state colony.

<sup>2</sup> There were a large number of British settlers, who had come mainly from Barbados since 1740, and many of the Dutch in the colony were supporters of the Prince of Orange, and hence of the British, in the revolutionary wars.

with a right of voting only for the raising of colony taxes and not further, six inhabitants,' to be elected for a term of two years by all owners of twenty-five slaves and upwards.<sup>1</sup> In this way directly elected representatives were for the first time given a place in the Government, but it is surprising that a British Governor allowed a franchise based only on the ownership of slaves to remain unaltered.

The next incident of importance was the return of the colony to the Batavian Republic by the Peace of Amiens in 1802, and its prompt recapture during the following year when hostilities reopened. The articles of capitulation on the surrender in 1803 guaranteed that 'the Laws and Usages of the Colony shall remain in force and be respected, the mode of Taxation now in use be adhered to'.<sup>2</sup> It is on these articles that the constitutional rights of the colonists to-day are founded. In accordance with them, the colony contained at the beginning of the final period of British rule a Court of Policy of four official and four unofficial members, the latter serving for eight years, two Colleges of Kiezers, each of seven members elected for life, and six Financial Representatives elected for two years to sit with the Court of Policy when it was exercising its limited financial powers. In 1812 the Governor of the day made an attempt to simplify the system by issuing a proclamation announcing that thenceforth the Financial Representatives and the Kiezers would be united in one body elected by the planters. He was, however, reprovved for having broken the terms of capitulation, and in 1831 the old system was restored by order of the home Government.<sup>3</sup> In the meantime the slave rebellion of 1823 and the case of the Rev. John Smith had caused great excitement in England, and, in view of the passions aroused against the Demerara planters by these events, the Government was glad to be able to plead fidelity to the terms of capitulation as a reason for returning to a more diluted representation, through the restoration of the Kiezers chosen for life.

<sup>1</sup> Printed in *Papers, &c.*, 1846. See also Rodway, ii. 117-18.

<sup>2</sup> Rodway, ii. 164-5. Roman-Dutch law remained in force in the colony until 1917, when it was superseded by a new civil code based on old practice, contained in the *Civil Law of British Guiana Ordinance*.

<sup>3</sup> Proclamations of 7 Sept. 1812 and 21 July 1831 are printed in *Papers, &c.*, 1846.



In 1831 also, the three Dutch provinces were completely merged in the colony of British Guiana, with one Court of Policy, one College of Electors, and six Financial Representatives, for the whole area.<sup>1</sup> The government lasted in this form without serious modification until 1891; but, though the form was fixed, there was great difference of opinion as to the powers exercised by the respective parts, a difference immediately brought to the surface by the slavery issue. The dispute turned on the definition of the rights guaranteed under the capitulation of 1803, and this definition depended on the practice previously in force under the Dutch. The colonists claimed on the one hand an exclusive right of legislation for the Court of Policy, and entire control of finance for that Court sitting with the Financial Representatives (now known as the Combined Court). They asserted, in short, that their legislature possessed the full powers exercised by the Assemblies in other colonies, though of course the presence in the Court of Policy of a nominated majority put the executive in a much stronger position than in the colonies under the old representative system. To this contention the reply of the Government was that British Guiana was a conquered colony, but that it was true that the unlimited prerogative of the conqueror had been curbed by the terms of capitulation. These terms, however, had only guaranteed existing usages; the Court of Policy had never possessed the sole right of legislation, nor the Combined Court the power to control the whole revenue, but only the poll-tax which was paid into the Colony Chest. There is no doubt that the terms of capitulation did allow the Crown to legislate by Order in Council, and that the disputed Orders in Council enforcing emancipation of the slaves were legally valid. There was, however, more room for argument over the financial powers of the Combined Court. The discussion centred around two points, the grant of a Civil List to the Crown as a matter of right in succession to the separate King's Chest, and the power of the Combined Court to discuss the estimates of expenditure. The Court contended that any Civil List was a free gift, and that the estimates were legally

<sup>1</sup> The colonies were united by the terms of Governor D'Urban's Commission, 4 March 1831; the Court of Policy was reconstructed by his proclamation of 23 July 1831. Papers printed in *Papers, &c.*, 1846.

under its control ; but the home Government, refusing to recognize this, adopted the ingenious device of only allowing the estimates to be discussed by the Combined Court after a satisfactory Civil List had been passed for a term of years. There the situation has remained until to-day, with the respective rights of Court and Crown still a matter of argument.<sup>1</sup>

In 1836 the separate Chests were united in one colonial treasury, and a Civil List was voted for seven years. In return for the Civil List, the Crown allowed the Combined Court 'the privilege of free and unreserved discussion of the Annual Estimate of Colonial Expenditure',<sup>2</sup> in place of the former system by which the Court 'had to raise the supplies on the estimates presented by the Court of Policy', its only discretionary powers lying in the determination of the nature, not the amount, of taxation.<sup>3</sup>

In spite of the conditional character of their powers, the elected representatives in British Guiana soon showed that they could utilize their constitution as an instrument of obstruction almost as effective as that of their colleagues in Jamaica. Emancipation was followed by a labour shortage probably more severe than anywhere else in the British West Indies,<sup>4</sup> and British Guiana was one of the colonies in which the equalization of the sugar duties in 1846 greatly increased the distress of the planters. The violent resentment aroused by these acts of the home Government resulted in 1840, and again in 1848, in a refusal by the Combined Court to vote the revenue bills, and consequently in a complete stoppage of taxation. Reduction of expenditure was essential, and the Combined Court sought to effect it by attacking the salaries of public officers, though these were guaranteed by the Civil List and only amounted to one-seventh of the

<sup>1</sup> The Civil List resembles the British Consolidated Fund on a small scale.

<sup>2</sup> Order in Council, 3 June 1842.

<sup>3</sup> Dispatch from Governor Light, 13 June 1839, in *Papers, &c.*, 1846.

<sup>4</sup> In a desperate search for a supply of labour, the Guiana planters brought in under indenture in 1836, 44 Irish and 47 Londoners ; in 1837, 43 Scots ; and in 1839, 121 Germans and 264 Maltese. Ireland, *Demerariana* (Georgetown, 1897), p. 52. Later large numbers of Portuguese were introduced ; they proved of little use as labourers on the plantations, but their descendants have now come to control the retail trade of the colony. East Indians were brought in first in 1838, and indentured immigration from India ceased only in 1917.



total expenditure. The crisis of 1848, like that of the same year in Jamaica, was said to have been instigated by the protectionist party in England in the hope that the home Government would be forced to intervene by suspending the constitution, and would thus provide them with an excellent parliamentary issue. As in Jamaica, the agitators failed in their object, for the Governor was instructed that if funds were lacking he was even to disband the police and close the hospitals. Finally, after ten months' stoppage of taxation, Sir Henry Barkly persuaded the legislature to go to work once more. The opinion of Lord Grey, then Secretary of State, was that by tax reduction 'material relief might have been obtained in 1848, if the leading planters . . . would in that year have consented to apply themselves to a calm consideration of practicable and judicious financial reforms, instead of embarking on a reckless struggle with the Executive Government, nominally for an unjust reduction of a few thousand dollars of annual expenditure, but really for the recovery of their lost monopoly'.<sup>1</sup>

However this may be, the present definition of the powers of the Combined Court was settled during these disputes. In the first place, the Court possesses its original right to determine what sort of taxes shall be levied to meet the Governor's estimates, and to examine accounts (1796); secondly, it may discuss the estimates themselves so long as it has granted a Civil List which is satisfactory to the Crown (1836); and thirdly, this right of discussion of the estimates has been interpreted as including the right to reduce or strike off, but not to increase, any item except those on the Civil List or secured by law (1842).<sup>2</sup> The first power is now exercised under the terms of capitulation of 1803, and the others under authority of an Order in Council issued originally in 1842, and renewed after each renewal of the Civil List.<sup>3</sup>

Until 1891 the Court of Policy continued to act both as the legislature, except in such financial matters as came before the

<sup>1</sup> Grey, *Col. Policy*, i. 156-7; see also i. 147-8.

<sup>2</sup> A Standing Order of the Combined Court reads: 'Each item shall be considered an original motion, and any member desirous of decreasing any item or striking it off the estimates may move an amendment to that effect.'

<sup>3</sup> The last renewal of the Order in Council was on 22 March 1918, until 31 Dec. 1922, when the Civil List expires.

Combined Court, and as the Executive Council of the Governor. The only change in its organization was that its membership was raised to ten, with five official and five unofficial members. The College of Electors still chose these unofficial members, and the senior retired annually, so that the appointment was for a period of five years. The Electors still served for life, and thus the biennial choice of the Financial Representatives and the occasional replacement of an Elector who had retired or died were the only instances of election in the colony. Even for these the franchise was very restricted. The life tenure of the Electors in particular reduced popular representation in the main branch of the legislature to a shadow, without providing a satisfactory substitute. In 1838 Governor Light, in forwarding a petition to the Colonial Office for more direct representation, justly observed: 'These seven electors, being for life, may retain opinions and ideas totally at variance with the wants of the colony, and may therefore be biassed in their choice of members by feelings which may be contrary to the interests of the colony.' It was his opinion that the Kiezers should be abolished, and the Councillors of Policy directly elected.<sup>1</sup> In this he was right, for the Electors naturally tended to choose representatives of themselves rather than of the community, and the existence of such a body, in fact responsible to no one, was in contradiction to British policy and practice.

In spite of Light's recommendations, the College of Electors survived until 1891, when a thorough reorganization of the composition of the various governmental bodies was undertaken.<sup>2</sup> The form then introduced still remains, except for minor details. First, the Electors were swept away, and the direct election of the unofficial members of the Court of Policy was introduced. Secondly, an Executive Council was set up to take over from the Court of Policy its executive duties.<sup>3</sup> Thirdly, the Court of Policy was increased in size to sixteen, eight members being elected for

<sup>1</sup> The petition and accompanying dispatch are printed in *Papers, &c.*, 1846.

<sup>2</sup> By the *British Guiana Constitution Ordinance, 1891*, which came into force in 1892.

<sup>3</sup> Set up by Letters Patent, 5 March 1891; it is now controlled by Letters Patent and Instructions of 14 Feb. 1920, and has eight members, five of whom at present are officials.



a five-year term. Fourthly, the tenure of office of the Financial Representatives was also fixed at five, instead of two, years. The qualifications for elected membership in the Court of Policy are still high: they include ownership of eighty acres of land, with forty at least under cultivation, or an income from real property of five thousand dollars a year; while for the office of Financial Representative the same qualifications are required with the addition of a lower income franchise derived from any source. For voters there are many alternative franchises; as examples there may be selected the ownership of three acres under cultivation, or the tenancy of six acres, or an income of three hundred dollars a year.<sup>1</sup> The elections for the Councillors of Policy and Financial Representatives are held simultaneously.

The Court of Policy must by law hold two sessions a year, and these generally reach a total of twenty-five or thirty separate sittings. The Governor occupies the chair, with both an original and a casting vote, and in him is vested the initiation of all legislation.<sup>2</sup> The Court of Policy passes all laws for the colony (subject to the reserved right of the Crown to legislate by Order in Council), except the Tax and Customs Duties Ordinances, which are in the province of the Combined Court. By his right of initiation the Governor can exercise a considerable control over the sittings, and by the use of his casting vote he can, and in matters of importance frequently does, ensure that the official section commands a majority. The elected members are chosen by five constituencies. The number of voters on the register is between 4,000 and 5,000 out of a population of 300,000.<sup>3</sup> It is said, however, that the East Indians, who are 41·5 per cent. of the total, take no part in politics, although most of them have settled permanently, and many are prosperous small farmers engaged chiefly in growing rice, and in possession of the necessary franchise qualifications.<sup>4</sup> As it is, the polychrome representatives

<sup>1</sup> The franchise is prescribed by Ordinances 1 of 1891 and 24 of 1909.

<sup>2</sup> 'No Ordinance shall be enacted for any purpose which shall not have been first proposed to the said Court of Policy or the said Combined Court by the Governor, or by some member of the Court under his sanction previously obtained' (Instructions to the Governor, 1920).

<sup>3</sup> There were 3,550 voters on the register in 1907-8, 4,778 in 1915, 4,192 in 1917, and 4,285 in 1919.

<sup>4</sup> Mr. Wood comments on the position of the East Indians in Gujiana and

chosen include coloured, negro, and Portuguese, as well as other Europeans.

The Combined Court must hold at least one session annually, and its sole legislative output is the Tax and Customs Duties Ordinances. It is made up of the sixteen Councillors of Policy with the addition of the six Financial Representatives, making a total of eight official and fourteen elected members. The Governor normally occupies the chair, but he is not required to attend when ways and means are being discussed.<sup>1</sup> An interesting feature in the discussion of the estimates is the organization of committees to examine the details of departmental expenditure made up of elected members alone, and with power to summon before them the officers of the department under discussion.

It is the character of the control over finance exercised by the Combined Court that is the original feature of the constitution of British Guiana. For ordinary legislation the Government is assured of a majority in case of need, and, through the existence of the Civil List, it can rely on receiving a portion of the revenue even against the united opposition of the elected members. Beyond this, the whole power of taxation is in the hands of the elected members, if they choose to act sufficiently in concert to maintain a majority in the Combined Court. No one starting *de novo* would construct a form of government of this nature today, but it is fair to say that as a compromise with democracy it has had better results than some other attempts in the West Indies have had. It is an historical growth which derives certain advantages of solidity and precision from the fact of its long history; but it is not a satisfactory solution of the problem of government, for responsibility is openly and obviously separated from power in the realm of finance.

It should be noted that special problems of government arise in Guiana which are not to be found to the same extent in any

Trinidad as follows: 'The illiteracy of the East Indians in English, and the multiplicity of Indian languages spoken (at least five in each colony), form a serious drawback to the East Indians themselves. Every effort should be made to enable the rising generation to become literate in English. The East Indians—the backbone of the agricultural industry in both Colonies—are the "under dogs" politically when compared to the negroes, owing to the superior educational advantages of the latter.' (Cmd. 1679, 1922, p. 67.)

<sup>1</sup> By Order in Council, 3 June 1842, renewed 22 March 1918.



other West Indian colony. The area of the colony is ninety thousand square miles, yet all but a small fraction of the inhabitants are concentrated in a narrow belt of coast-land three hundred square miles in area. In the words of Mr. Wood, 'British Guiana is a vast virgin forest country, with resources in land, timber, minerals, and water-power lying idle and unharnessed. It is part of the great fertile belt of tropical South America awaiting development. Although as large as the whole of Great Britain, it has a population less than that of Hertfordshire, and a cultivated area about one-fifth the size of Kent.'<sup>1</sup> The task of administration is thus complicated by a huge problem of development, involving not only a great influx of capital to open communications with the interior, but also immigration on a large scale to solve the ever-urgent labour difficulties. It is beyond the resources of the colony alone to open up with any rapidity the wealth of the hinterland, and it has been often suggested that the financial control exercised in the Combined Court by the local representatives has prevented capital coming in from abroad.<sup>2</sup> A proposal has therefore been made that the boundaries of British Guiana should be confined to the coastal strip, and that the interior should be temporarily erected into a new colony in which the Crown should have complete control.<sup>3</sup> Certainly under the present conditions the development of the natural resources of the interior will be a matter of very many years, but whether that is altogether undesirable is another question.

## § 2. *Jamaica*

In the present form of government in Jamaica some ideas may be found which have been borrowed from the old Dutch constitution of Guiana. Alone of the colonies which abandoned the old representative system, Jamaica has started afresh with

<sup>1</sup> Cmd. 1679 (1922), p. 83.

<sup>2</sup> Mr. Clementi, the Colonial Secretary, whose experience entitles great respect, said recently: 'I regard it as essential that a Government should be set up in British Guiana which can really govern, and from which the power of the purse is not withheld. . . . There should be an official, not an unofficial, majority in the Colony's body politic.' (Speech before the Royal Colonial Institute, printed in *United Empire*, July 1922.) Mr. Wood, however, and many others do not share this view. (Cmd. 1679, 1922, pp. 87-8.)

<sup>3</sup> See *Debates of the House of Commons* for 30 July 1919, and Cmd. 1679, p. 86.

a measure of representative institutions.<sup>1</sup> By far the most populous of the West Indian colonies, and in many ways the most stable both politically and economically, though not the wealthiest if the value of exports be a fair test of wealth, Jamaica has moved a long way from the passions by which it was torn in 1865, and has developed a new and tolerant civilization based mainly on the negro peasant proprietor.

The island remained under 'pure' Crown Colony government, with a nominated Legislative Council, from 1866 to 1884. This Council at first contained the Governor, six *ex officio* members, and three private citizens; in 1869, however, its composition was modified by reducing the number of *ex officio* members to three, so as to leave greater liberty of choice.<sup>2</sup> The official and unofficial sides of the Council were kept equal in number, and the unofficial section gradually assumed the character of a parliamentary opposition. This was shown clearly in a dispute in 1881-2 over the payment of damages awarded against the Governor on account of the seizure of the ship *Florence* in 1877. The unofficial members and two official members resigned from the Council as a protest against the use by the Governor of the official majority in order to recover, at the instructions of the home Government, some £4,000 from the Jamaica treasury; they held that the seizure had been in the imperial interest, and that the damages involved should be paid from imperial funds.<sup>3</sup> From this time until the constitution was changed in 1884 the Council contained only official members.

The dispute over the *Florence* served to increase an already growing local demand for a less autocratic system of government.

<sup>1</sup> At the time of writing (July, 1922), however, the introduction of some elected members in the Grenada legislature is pending, and this departure will probably soon be extended to others of the Lesser Antilles.

<sup>2</sup> By Order in Council of 11 Nov. 1869, amending the Order of 11 June 1866. Another Order was issued on 14 Feb. 1883 authorizing official members only to form a quorum, on account of the abstention of the unofficial members from attendance over the *Florence* incident.

<sup>3</sup> The *Florence*, laden with arms, had been seized on her way from Venezuela. Damages of over £8,000 (including costs) were awarded against the Governor (in *Musgrave v. Pulido*). The home Government was prepared to share this with the Government of Jamaica. The case resulted in a clear definition of the duty of the official members of the Council to support the Governor when called on. Correspondence printed in C. 3453 (1882).



In 1884 the Royal Commission appointed to examine the financial condition of some of the West Indian colonies reported that 'it cannot be denied that improvement and reform in the existing system of government, tending towards more representative institutions and judiciously meeting the legitimate desire of the residents in Jamaica to exercise some practical influence on the raising and disposal of the local revenue, is both possible and urgently desirable'. 'The various trials', the report continues, 'through which Jamaica has passed have been due to political and economic causes which are now of the past, and it is certain can never recur. It is to be hoped that with them may be buried the acrimony and recrimination which have been so long the political curse of the island.'<sup>1</sup> In the evidence given before the Commission, Crown Colony government as then practised found a number of supporters, especially among the negroes, some of whom were inspired by a just distrust of the political capacity of their fellows and by acrid memories of the former white oligarchy. The principal advocates of a change were the members of the white community and some of the coloured inhabitants. After a series of petitions extending over several years, and now supported by the findings of the Commission, the change was made by an Order in Council on 19th May 1884, and Sir Henry Norman was entrusted with the task of inaugurating the new constitution.<sup>2</sup>

There was no question of the restoration of the Assembly; two hundred years' experience of its defects ensured that it would never be revived. There was also no question of granting responsible government to a community in which the vast majority of the inhabitants had no political interests or desires except to escape from taxation as far as possible. Therefore a compromise had to be devised which would allow for some representation while leaving sufficient power in the hands of the executive to secure the carrying on of the business of government. The change made in 1884 was simple. The Legislative Council

<sup>1</sup> C. 3840 (1884), p. 87. It should be noted that the fruit trade, now by far the premier industry of Jamaica, had begun in 1868, and was growing more important from year to year.

<sup>2</sup> Papers are printed in H. C. 425, (1881), C. 3854 (1884), and C. 4140 (1884), concerning these constitutional alterations.

had contained, before the *Florence* incident brought about the resignation of the unofficial members, the Governor, nine officials, and nine nominated unofficial members. These nine unofficial members were now made elective, and otherwise the composition of the Council was left as before. Special powers, however, were given to these members which made their importance greater than their number alone warranted. It was in these special powers that the influence of the practice in British Guiana was apparent. The Order in Council prescribes: 'The votes of the *ex officio* and nominated members shall not be recorded in support of any law, vote, or resolution, imposing any new tax or appropriating any public revenue'—except for certain salary and pension rights—'if not less than six elected members shall have voted against such law, vote, or resolution, unless the Governor shall have declared his opinion that the passing of such law, vote, or resolution is of paramount importance to the public interest.' It is further provided that the Governor is not to employ his official majority to carry any proposal of any nature, without a similar declaration, if the elected members are unanimous in their opposition. Thus six members were given power to control finance by acting in concert, and the whole nine to control all legislation, with the right reserved to the Governor of overriding them in case of necessity.<sup>1</sup> The special financial powers were stated by the Secretary of State to have been designed to give to the elected members 'a similar power, in respect of taxation and expenditure, to that enjoyed under the Constitution of British Guiana by the Combined Court in that Colony'.<sup>2</sup>

The nominated side of the Council consisted of the Governor in the chair with the usual double vote, four public officers sitting *ex officio*, and not more than five others to be named by the Crown. These last vacated their seats at a dissolution subject to re-appointment. The elected members could hold no office of profit

<sup>1</sup> Regarding the use of this power, the Secretary of State (Lord Derby) wrote to Sir Henry Norman: 'I trust it will be rarely or never necessary for the Governor to exercise the power of overriding the votes of the elected members, but it must be clearly understood that it is his duty to do so if in his opinion the public interest absolutely requires it.' (Dispatch of 19 May 1884, in C. 4140, 1884.)

<sup>2</sup> Derby to Norman, 1 Dec. 1883, in C. 3854 (1884).



under the Crown; they had to possess a moderate property qualification, such as the receipt of an income of £150 from landed property; and they were returned by single-member constituencies for a five-year term, subject to the prerogative of previous dissolution. From the voter all that was required was a very low property qualification, with a literacy test which was not to be enforced at the first registration.<sup>1</sup> At this registration one voter was enrolled for every sixty-two people in the island, and there were many who were qualified but did not trouble to enroll.

The form of government established in 1884 has not been seriously altered. In 1893, in consequence of the complaint of a Governor that 'the presence of the Governor as President of an elected or partly elected Assembly is not conducive to the dignity of his position', the Governor was withdrawn from the Legislative Council, and a nominated President was appointed in his place. It was found in less than a year that this arrangement was impracticable, and the Governor was restored to his old position; he was, however, deprived of his original vote, and was only empowered to vote in case of a tie.<sup>2</sup> In 1895 another change was made by raising the number of elected members to fourteen, to coincide with the number of the parishes, since these serve also as electoral districts. Power was reserved to bring up the nominated side to an equal number. The number of elected members required to vote together in order to exercise their peculiar financial privileges was increased from six to nine, and a further qualification was added for elected membership, that candidates must reside for twelve months in their constituency or draw an income of £150 a year from lands situated in it.<sup>3</sup>

In setting up the new legislature in 1884 a liberally intended experiment was tried which the Government deemed it necessary later to abandon. Sir Henry Norman suggested, and Lord Derby agreed, that the full number of nominated members should not at first be appointed, but that the elected members should be allowed to remain in the majority. This meant that if ever the elected members persisted in rejecting a measure which the

<sup>1</sup> A typical franchise was the payment of £1 yearly in rates and taxes on house property.

<sup>2</sup> Orders in Council of 30 Jan. 1893 and 29 Jan. 1894; Correspondence in C. 6997 (1893).

<sup>3</sup> Order in Council of 3 Oct. 1895.

Governor believed essential for the efficient conduct of his administration, he would have first to complete the number of nominated members before he could secure a majority with which to carry his proposal, after issuing a declaration that it was 'of paramount importance in the public interest'. For fifteen years the Governors succeeded in carrying on without possessing a nominated majority in the legislature. Then a financial crisis occurred, and with it a legislative deadlock. Sir David Barbour, sent by the Secretary of State to report on the situation, summed up the issue as follows :

'When it was apparent that either more revenue must be raised or expenditure must be reduced, the Government was in favour of increasing taxation, while the elected members of the Legislative Council pressed for reductions of expenditure. From the nature of the Constitution the Government was practically unable to carry proposals for increased taxation in opposition to the votes of nine elected members, while the elected members could not in any satisfactory manner enforce reduction of expenditure. . . . The only real responsibility for the finances rested on the Governor, but he could not enforce his policy except by filling up the Council with nominated members. . . . Such action on his part would be a very unpopular measure, would bring him into direct conflict with the elected members, would expose him to popular clamour, and it is not surprising that it was not exercised.'

Sir David advised that the home Government should appoint the full number of nominated members, and should keep them in the Council in future as a permanent official majority to be employed when necessary.<sup>1</sup>

The complementary members were appointed in accordance with this recommendation. The Secretary of State stated his reasons for taking this course as follows :

'As "a working compromise" the existing system has failed. It is a compromise, but it has not worked. . . . It is in fact impossible, except where tact and goodwill and friendly feeling exist in an unusual degree, for the government of a country to be carried on where those who are responsible for it are in a permanent minority in the Legislature. I decline to allow the Jamaica Government to remain in that position any longer.'<sup>2</sup>

<sup>1</sup> *Report on the Finances of Jamaica*, C. 9412 (1899).

<sup>2</sup> Chamberlain to Hemming, 22 Aug. 1899, in Cd. 125 (1900), p. 15.



There was, however, another side to the question which was not to be answered by the provision of a Government majority. The elected members had been largely in the right in their accusations against the Government of extravagance. Sir David Barbour admitted as much when he reported that 'the present state of things shows that both increase of taxation and reduction of expenditure were necessary'. The fault lay as much with the Government as with the elected members; and the remedy adopted, by providing the Government with a mechanical majority, protected the Government against the intransigence of the elected representatives, but did not protect the people of Jamaica against the incompetence of the Government, of which many complaints could justly be made. Since that time the full panel of nominated members has been maintained in the Council.<sup>1</sup>

The Legislative Council of Jamaica now consists of the Governor in the chair, fourteen *ex officio* and nominated members, and the same number of elected members. Ten officials, apart from the Governor, sit in the Council, five of them *ex officio* and five as nominees of the Crown. The Governor has thus ten official votes on which he can reckon, and in addition there are the five unofficial nominated members whose votes he may demand if he requires them. The initiation of all money bills is restricted to the Governor or his deputy; but when a division is held, the votes of the elected members are taken first, and if nine of them vote against the motion the Governor does not call upon the nominated members to vote. The only restriction on the control of the Council over the colonial finances is the reservation of a small Civil List to the Crown.<sup>2</sup>

The Executive Council in Jamaica retains its old name of Privy Council.<sup>3</sup> At present it is made up of three *ex officio* members, three other officials, and three unofficial members. The elected members of the Legislative Council have no representation on the Privy Council.

<sup>1</sup> The Governor was, however, instructed that 'with harmonious working, with reasonable debate and criticism, it may become unnecessary to insist at all times on the full attendance of all the official members' (Cd. 125, 1900, p. 45).

<sup>2</sup> The Civil List is, however, not acted on at present.

<sup>3</sup> The Privy Council is constituted by Letters Patent and Instructions of 29 July 1887.

The franchise has been reduced even from the low level at which it was fixed in 1884. Now the payment of ten shillings in rates on real property, or of thirty shillings on personal property, or the receipt of an annual salary or wages amounting to not less than £50, will qualify for the vote.<sup>1</sup> In Jamaica alone of the West Indian colonies have women been admitted to the suffrage, though on terms rather higher than in the case of men.<sup>2</sup> The vote has thus been placed in reach of a very large section of the population, but of those in possession of the qualifications only a moderate percentage register, and of those registered only a small portion trouble to go to the polls. In 1896 there were 38,376 names on the register, in 1901 16,256, and in 1905-6 only 8,607. The decline was in part due to a period of hardship during which many of the poorer voters were disqualified by the receipt of poor relief. By 1910-11 the number had risen to 27,257, and by 1920 (the year of the last election) to 42,267. The statistics of the last three elections show in 1906 six unopposed returns and 1,628 votes in the eight contested districts out of 4,568 on the register, in 1911 five unopposed returns and 7,449 out of 19,609 registered electors voting in the nine contests, and in 1920 no less than nine unopposed returns and only 3,858 voters out of 17,958 registered in the five districts in which polls were held. With such figures on record, it seems impossible to claim that the large majority of the people of Jamaica takes even a momentary interest in the choice of representatives under the present system. The electioneering is done by the white and some of the coloured inhabitants, and, though the composition of the Council is variegated racially, the pure-blooded negro has in general shown neither the will nor the political ability to enter its doors.<sup>3</sup>

It would be rash to assume, however, that, because only a very small minority of the people takes part directly in politics, the representative institutions of Jamaica could be lightly done away with. Even in the oldest and best organized of political

<sup>1</sup> The franchise is prescribed by Law 52 of 1908 and Law 28 of 1909.

<sup>2</sup> Law 22 of 1919.

<sup>3</sup> In 1910, the last year for which I have been able to secure an accurate figure, there were eight white (four of them Jewish), five coloured, and one black in the Legislative Council on the elected side. (Johnson, *Negro in the New World*, p. 270.)



communities active interest in political questions is only maintained consistently among a diminutive fraction of the population. In Jamaica this fraction, though small in number, is of great importance in the life of the island, and is annually growing more competent to perform its duties of election and criticism. The quality of the elected members tends to improve ; in contested elections the best, not the most eloquent, candidate is generally chosen ; and in the conduct of business in the Council considerable parliamentary skill has been acquired. There can be no question of reversion to a nominated legislature once more ; representative institutions of some sort have come to stay, and the question of the hour has to do, not with their retention, but with their extension and better organization.

The two constitutions of Jamaica and British Guiana are sufficiently similar to be open to the same theoretical objections. Though the devices by which some measure of power is given to the elected members are different, the effect is constitutionally much the same in each colony. Sir David Barbour, in his report made in 1899 on the finances of Jamaica, gave in abstract form the main reasons why friction arose.<sup>1</sup> In his opinion the constitutional troubles of Jamaica are, to some extent at least, inseparable from any attempt to compromise between the conflicting systems of Crown Colony and Representative Government. In finance especially ' the responsibility of the Legislative Council could never be enforced in any practical manner, because, for whatever policy the elected members might vote, the burden could not be placed on them of putting that policy into practice and enforcing it. They could refuse to sanction expenditure, could delay business in the Council, and throw the administration into confusion, but in no way could real practical responsibility for their action be placed on them.' The real responsibility was the Governor's, but if he secured the sanction of the legislature for his policy, ' he largely reduced his personal responsibility by a nominal transfer of it to a body on which no real responsibility could be enforced '. In the last resort, indeed, the home Government, to which the Governor had to answer for his administration, was wholly responsible, but its responsibility was so diluted by the division of powers between its agent, the

<sup>1</sup> C. 9412 (1899), pp. 20-2.

Governor, and the Legislative Council, and within the Legislative Council between the nominated and elected members, that it was ineffective. Following out this train of thought, he advised as a remedy not that practised in the Dominions, to make the responsibility of the elected members real by transferring to them the control of the executive, but the exercise of greater control over the local Government by the Colonial Office, thus 'substituting for the nominal responsibility of the elected members the real responsibility of the Colonial Office'.

If the universal validity be admitted of the political principles which have guided the development of the British Constitution at home and abroad, this condemnation is sound. In Jamaica responsibility is divorced from power, and in British Guiana this condition is even more marked on account of the absence of any method, analogous to the declaration of paramount importance in Jamaica, by which the Governor's will can in the last resort prevail over the Combined Court. In both colonies the elected members are in the position of a permanent and watchful opposition, with their excesses never curbed by the prospect of having to put their ideas into practice, yet with the power to force on the executive the acceptance of their ideas to a considerable extent. They continually act as destructive critics, with no core of real responsibility behind the miscellaneous fruits of verbiage with which they pelt the Government, and if their criticism leads to unwelcome results they can truly say that the fault is not theirs. The tendency is for the legislature to be divided into two parties, the Government and the elected members; though the elected members are by no means always united among themselves, yet a member who leaves the majority of his party to support the Government may have to meet accusations of faithlessness.<sup>1</sup> The presence of the elected section in the legislatures is in some respects an open encouragement to the people of the colony to take sides against the Government.

On the other hand, Jamaica in any case is probably adminis-

<sup>1</sup> For example, in Guiana an elected member who often supported the Government is said by the press to have earned an 'unenviable notoriety' (*Georgetown Chronicle*, 10 Mar. 1921), and another in Jamaica in similar circumstances is called 'a standing criticism and condemnation of the constitution which Jamaica possesses' (*Jamaica Gleaner*, 10 June 1921). The latter was asked to resign for 'voting consistently with the Government'.



tered a good deal more effectively than it would be either without elected representatives in the chamber or under responsible government ; and that is an adequate answer to many criticisms. Though the system of government may not conform to the principles of the dominant political philosophy, it must be remembered that the social background to the framework of the government is fundamentally different from the background in those communities in which that political philosophy has found expression. Logic plays a small part in West Indian public opinion. The constitution of Jamaica has been successfully worked in the past, and, though it requires amendment in detail, it has probably a long future before it. The most essential element for its successful working has not always been present, and it is mainly for this reason that troubles have occurred : what is required above all else is wisdom and character at the top. A good Governor, with the gift of sympathetic understanding, does not find himself caught between the horns of constitutional dilemmas. Public opinion is sensitive to faults of administration, but it is also responsive to authority wisely employed. The constitution is a compromise between autocracy and responsible government, and the effective administration of the compromise depends directly on the ability of the Governor, who occupies the pivotal position. Such a compromise must have grave disadvantages ; but, in spite of these, it has proved itself not unsuited to the state of affairs in Jamaica. The old objections which could be urged with reason against the existence of the irresponsible Assembly no longer apply. The Legislative Council does not now represent only a narrow and embittered oligarchy ; and the acute causes of friction between imperial policy and local interest, such as were provided by the mercantile system and by the emancipation of the slaves, have disappeared.

A way out, however, must be provided, to avoid deadlock. The present method of reserving to the Governor the right to disregard the special powers of the elected members by declaring that a measure is of paramount importance, has not proved satisfactory. This procedure has in fact never been employed, though its existence has more than once affected the course of events. The Governor is responsible for its employment, and yet to make it effective he has to hide his responsibility behind

the votes of the official and nominated section of the Council. Why should not his responsibility be openly assumed? If the elected members persist in throwing out a Bill which he considers vital, why should he not proclaim the Bill as law (if possible after securing the approval of the Colonial Office), without going through the solemn farce of carrying it in the Legislative Council by ordering the nominated majority to agree with him? Let him be openly autocratic in making use of an autocratic power.

If such powers are entrusted to the Governor, it then becomes unnecessary to bolster him up with a nominated majority in the legislature. Jamaica is ready for a constitutional advance, and the constitution needs overhauling. Mr. Wood, after his recent investigation on the spot, has decided that an elected majority in the legislature will not endanger the efficiency of the Government, provided that a satisfactory means exists by which the Governor can overrule this elected majority in extreme cases. 'The government of Jamaica', he comments, 'would at present seem largely to consist in a series of efforts to avoid a contest between the Governor and an unknown nine out of fourteen men.' The present Council, furthermore, demands the attendance of ten senior officials; it may sit for as many as a hundred days each year; and during its sessions these public officers are forced to occupy the benches of the legislature instead of attending to the work of their departments. Mr. Wood proposes to do away with the nominated majority by leaving the elected side of the house as it is at present, and reducing the official and nominated side to the Governor and ten others. These ten would consist of three *ex officio* members, two other officials chosen by the Governor, and five nominated unofficial members with complete liberty of voting as they chose. The Governor would be left with only six official votes at his command, and the elected members would outnumber by three the whole nominated side.<sup>1</sup> He might be unable to carry measures which he regarded as essential to the performance of his duties, and an intractable opposition might be able to paralyse the Government as effectively as the old Assembly did. To avoid this serious gap in the

<sup>1</sup> The special powers of the elected members would be abolished, and all decisions would be reached by majority vote. Mr. Wood's plan of reform is to be found in Cmd. 1679 (1922), pp. 11-17.



chain of responsibility, Mr. Wood advises that the Governor should be given autocratic power to disregard the votes of the whole unofficial section of the legislature, after due notification, on proposals which he deems vital for the good of the colony. Bills would then have the force of law for which the votes of the official members only had been recorded.<sup>1</sup> This action would be taken only after consultation with the Colonial Office when possible, and in any case would be subject to review by the Secretary of State.

Mr. Wood also devises a scheme by which he hopes to bring the elected members into closer association with the executive. He would leave the Privy Council as it is, but would create a new Executive Committee on which four elected members chosen by their fellows should sit, together with five senior officials and two unofficial nominated members of the Council. This body would be charged with advisory duties alone, but 'in practice it may be anticipated that all financial matters, and projected legislation, will be referred to this body'. Mr. Wood wisely refrains from a close description of the duties of the committee, for if it is to be successful its organization must be plastic. It is to be presumed that the elected members serving on the committee would be free to oppose its measures in the Legislative Council. It is too soon to attempt to introduce in Jamaica the tradition of cabinet solidarity in an executive body of so mixed a composition.

<sup>1</sup> It does not seem obvious in such circumstances why the votes even of the officials should be taken. The responsibility is, and remains, the Governor's. See below, pp. 141-3, for a discussion of the 'tied' official vote.

## VIII

### 'PURE' CROWN COLONY GOVERNMENT<sup>1</sup>

#### § 1. *Trinidad and St. Lucia*

IN one half of the West Indian colonies the attempt to compromise with democracy has either never been made or has been renounced, and pure Crown Colony government prevails. As a form of government in the British Caribbean possessions it is of a respectable antiquity, for in Trinidad and St. Lucia it was introduced after their capture during the Napoleonic wars. During the last fifty or sixty years it has spread to the Leeward Islands,<sup>2</sup> British Honduras, Grenada, St. Vincent, and Tobago, while Jamaica, after coming under the unfettered rule of the Crown from 1866 to 1884, has made a new start towards representative government.

Trinidad was taken from the Spanish in 1797, and General Picton was put in charge of the administration as a military dictator. The Spanish courts and legal system by the terms of capitulation remained in force. The principal advisory body under Spanish rule, the 'Illustrious Board of the Cabildo', had combined the legislative, executive, and most of the judicial duties of the Government, as well as exercising ecclesiastical powers, subject, however, to a close control from the Audencia of Caracas and to the dictatorial powers of the Government in Spain. Under British rule its influence, never of great account, gradually waned, and finally its dignified trappings disappeared in 1840 beneath the drab raiment of the Town Council of Port of Spain. With it the other relics of Spanish administration were slowly superseded. By 1848 Spanish law had given way to

<sup>1</sup> For use of the expression 'Crown Colony government', see note on p. 71.

<sup>2</sup> For so-called representative institutions in the Leeward Islands Federal Council, see below, p. 148-9.



British except in a few unimportant details, and the disappearance of the last of the Spanish courts thirty years later extinguished the remaining traces of alien rule in the government of the colony.<sup>1</sup>

A strong effort was made immediately after the capture of the island to influence the home Government in favour of the establishment of an elected Assembly, and similar attempts were periodically renewed for many years. The English settlers who had come to the colony were the leaders in the demands for the ‘blessings of a British Constitution’, while the Spanish and French inhabitants remained hostile or apathetic. It was not until 1810 that the home Government came to a definite decision. In that year Lord Liverpool notified the Governor that the demand for an elected Assembly was refused. The foreign descent of most of the white residents and the large proportion of free coloured inhabitants were urged as reasons, as well as the necessity of power being retained by the Government to make the abolition of the slave-trade effective. ‘It is essential for this purpose,’ he wrote, ‘that in a new colony the Crown should not divest itself of the power of legislation, and that neither the Crown nor Parliament should be subject to the embarrassments which on such an occasion would perhaps arise from the conflicting views of the Imperial Parliament and a subordinate legislature. . . . Under these circumstances you may consider it as a point determined, that it is not advisable to establish within the Island of Trinidad any independent internal legislature.’<sup>2</sup>

Gradually the government of the colony took on its present form. In 1801 the Governor appointed a Council of Advice of five prominent inhabitants to assist him, but he remained a virtual autocrat, though without adequate powers of taxation and legislation, for some years. In 1831 the constitutional machinery was remodelled. The Council of Advice became the Executive Council, and a Legislative Council was for the first time set up. This body was nominated by the Crown, and contained six

<sup>1</sup> Reis, *Government of Trinidad*, pp. 19–31.

<sup>2</sup> Dispatch quoted in L. M. Fraser, *History of Trinidad from 1781 to 1839* (2 vols., Trinidad, 1891–6), i. 334–6.

official and six unofficial members.<sup>1</sup> In spite of the frequent demands for the admission of elected representatives, the Council still survives in this shape. To-day it includes ten officials, all of whom sit *ex officio*, and eleven unofficial members appointed by the Crown for a five-year term, with the Governor in the chair holding both an original and a casting vote.<sup>2</sup>

In St. Lucia also, after its final capture from the French in 1803, the institutions already in force were for a time retained. The *Conseil Supérieur*, the local legislature and Court of Appeal, continued to act until 1816, when, in consequence of perpetual quarrels with the Governor, it was reduced to the status of a Court of Appeal simply, and a Privy Council of five was formed. In 1832 the latter was divided into an Executive Council of the five chief officials and a Legislative Council of eleven all named by the Crown.<sup>3</sup> The island has no further constitutional history. At present there is a legislature of eleven, and an Executive Council of the usual form containing one or two unofficial advisers. French law has survived in civil causes, but in 1878 it was reduced to a special code for the island.

These were the first two West Indian colonies in which a complete control of legislation was kept in the hands of the Crown. On their capture both were undeveloped estates, with a small population alien in language and religion; and in both there were certainly excellent reasons for the Government's refusal to set up elected Assemblies. In them alone was the Government able to secure without any serious difficulty the passage of the laws necessary to complete the emancipation of the slaves, though local opinion was as bitterly opposed to the measure here as anywhere else.<sup>4</sup> They alone escaped the continual disputes and deadlocks of the first sixty or seventy years of the nineteenth century, not because their government was in the

<sup>1</sup> It was established by Letters Patent of 25 April 1831. It was at first known as the Council of Government, but its name was altered to Legislative Council in 1863.

<sup>2</sup> The Councils are now regulated by Letters Patent of 1 Oct. 1880 and Instructions of 30 Aug. 1905.

<sup>3</sup> Breen, *St. Lucia* (1844), pp. 392-7.

<sup>4</sup> For a comparison with conditions in other colonies during the slavery disputes, from the Colonial Office point of view, see Taylor, *Autobiography*, i. 123-4.



hands of abler men, or because they avoided the universal distress which followed the loss by the West Indies of the control of the sugar-market, for this was not the case; but simply because in them power and responsibility went together, and the Governors could secure the legislation and financial support necessary for the execution of their policy by the possession of supremacy in the legislatures.

§ 2. *The 'Pure' Crown Colonies of To-day*

When the final breakdown of the old representative system came in all the West Indian colonies except Barbados and the Bahamas, it was to the models of Trinidad and St. Lucia that the attention of the expiring Assemblies was drawn, and eventually these forms were reluctantly adopted.<sup>1</sup> In all the colonies now administered under 'pure' Crown Colony government the system is much the same. There is an Executive Council made up of the chief officials, with a few unofficial advisers in addition, and a Legislative Council also containing the principal public officers and a larger number of unofficial representatives. The Governor sits as President of the Legislative Council, and the official members are in a majority. Only in the case of British Honduras is there an unofficial majority in the legislature; this was authorized in 1890 upon a dispute between the unofficial members and the Governor, after which a clear majority of one was allowed to the local representatives.<sup>2</sup> The unofficial members of the Legislative Councils are all nominated by the Crown, which means in effect by the Governor. In some cases special powers over finance have been given to the unofficial members. Thus in Trinidad there is a standing Committee of Finance made up of all the unofficial members, the Colonial Secretary, the Auditor General, and the Director of Public Works, the three officials, however, not being granted the right to vote; this committee approves all money votes before they reach the legislature, and to override its recommendations a special motion is required.<sup>3</sup>

A table is the simplest method of showing the composition

<sup>1</sup> See table at p. 80 for dates of adoption of Crown Government.

<sup>2</sup> Regulated by Additional Instructions of 20 Dec. 1912.

<sup>3</sup> *Standing Rules and Orders of the Legislative Council of Trinidad.*

of the Councils, as they were in 1921, in the colonies under Crown Government :

MEMBERSHIP OF EXECUTIVE AND LEGISLATIVE COUNCILS (1921)

Colony.		Ex Officio.		Nominated by the Crown.		Total.
		Governor.	Others.	Official.	Unofficial.	
Trinidad and Tobago	Exec. Coun.	1	3	2	1	7
	Leg. Coun.	1	10	0	11	22
British Honduras	Exec. Coun.	1	2	1	3	7
	Leg. Coun.	1	5	0	7	13
Grenada	Exec. Coun.	1	3	0	3	7
	Leg. Coun.	1	3	3	7	14
St. Vincent	Exec. Coun.	1	3	0	2	6
	Leg. Coun.	1	3	1	4	9
St. Lucia	Exec. Coun.	1	3	0	2	6
	Leg. Coun.	1	3	2	5	11
Leeward Islands Fedn.	Exec. Coun.	1	4	4	5	14
	Leg. Coun.	1	7	0	8	16

The presidencies of the Leeward Islands also have each their two councils of various sizes, with the exception of the Virgin Islands, in which the legislature has completely abolished itself by empowering the Governor of the Leeward Islands to ordain the local laws.<sup>1</sup> In the Turks and Caicos Islands there is no Executive Council, but a Legislative Board exists made up of the Commissioner, three officials, and three unofficial members.

The table shows that unofficial opinion is admitted not only to the legislatures but also to the Executive Councils. The unofficial Executive Councillors are the ministers without portfolio of the local cabinets, and they, together with their official colleagues, usually sit as well in the legislatures. Such an unofficial adviser of the Governor must, of course, be in general agreement with the policy of the Government, and must be prepared to resign if he differs seriously on an important issue. It would make the position of the executive difficult if opponents of the Government were admitted to participate in the confidential discussions of the Executive Council. The analogy of these councils to cabinets under responsible government does not go very far, for, though the heads of departments do sit in them, the unofficial members can hold no administrative responsi-

<sup>1</sup> By Virgin Is. Law 2 of 1902, and Leeward Is. Law 16 of 1902, 'The Legislative Council of the Virgin Islands and all functions and privileges thereof shall cease and determine. . . . It shall be lawful for the Governor to make ordinances for the peace, &c. of the Virgin Islands.'



bilities, and the advice which is tendered by the Council to the Governor may be disregarded by him at his discretion.

The Legislative Councils are the proper field for the expression of unofficial opinion, and the unofficial member can here be allowed greater liberty of action. A Secretary of State for the Colonies in 1868 expounded the views of the home Government on this question in terms which still apply.<sup>1</sup> The duties of each class of member in the councils are defined. First the Governor is 'bound of course to obey the Queen's commands conveyed to him by the Secretary of State, in his legislative as well as in his executive capacity, whether or not the course prescribed accord with his personal views and opinions'. The *ex officio* members are 'subject to obligations similar to those of the Governor . . . and they may, if necessary, be required to support the Crown in the Legislature'. The other class of official members, those who hold their seats by virtue of a personal nomination, are expected to 'give a general and effective support to the Governor's measures in the Legislature', and may be required to resign if they fail to do so. The fourth class, that of nominated unofficial members, have a freer hand; they are expected to 'co-operate with the Crown in its general policy, and not oppose the Crown on any important question without strong and substantial reasons, but of the validity of these reasons they will be themselves the judge'. In theory the position of the unofficial nominee differs little from that of the elected member in Jamaica and British Guiana, and in several of the colonies the unofficial sections in the Councils have assumed the character of a more or less united opposition. The fact, however, that his appointment lies in the hands of the Crown, that it is usually made for a limited period only, and that he has no constituents to answer to, places him much more directly under the influence of the Governor than are his elected colleagues elsewhere.

The extracts given from the dispatch quoted above serve to bring out one feature which mars the reality of the discussions held and decisions made in the Legislative Councils of the 'pure' Crown Colonies, and also in those of the colonies with semi-representative constitutions. This is the power of the Governor

<sup>1</sup> Dispatch dated 17 Aug. 1868, signed by the Duke of Buckingham, quoted in Sir C. Bruce, *The Broad Stone of Empire* (1910), i. 234-41.

to demand the support of certain classes of members even against their own judgement and conscience. An example of this unreality may be quoted from a press report of a recent meeting of the Legislative Council of Dominica. Resolutions had been introduced by an unofficial member in favour of the withdrawal of Dominica from the Leeward Islands Federation, and of the grant of representative institutions. 'The unofficials voted in favour of the resolutions, which were formally negatived by the officials' vote. The officials, however, with the permission of the President, expressed themselves unanimously in favour of the resolution before voting.'<sup>1</sup> It cannot be claimed that the formal decision of the Council expressed in the slightest degree the opinion of its members. The official members apparently felt so strongly on the questions under consideration that they went to the length of announcing their entire disagreement with their own votes. They voted in obedience to orders, not as rational beings.

It need not be assumed that this condition arises often. The official will generally agree with the policy of the Governor or the Secretary of State. But the knowledge that he may be required to vote to order, no matter what his own opinion may be, tends to make him scornful of the activities of the Council; while the realization in the minds of the unofficial members that official votes may be mechanical, is inclined to produce a suspicion of the motives of the officials on all occasions.<sup>2</sup> The system is humiliating to the conscientious official, and galling to the other side. Can a remedy be devised? The Secretary of State is responsible for the good government of the colonies, and he must possess means of ensuring that his policy can prevail in the legislatures if his responsibility is to be effective. But can that end only be achieved by providing the Governor with a majority which he can, if necessary, employ in a mechanical and lifeless

<sup>1</sup> *Canadian Gazette*, 19 Jan. 1922.

<sup>2</sup> In Jamaica the Governor can demand the support of the nominated unofficial members, as well as that of the officials in the Council. This is made necessary to ensure his majority in the Council, and the result has been that 'it is becoming increasingly difficult to get the best men either to give so much of their time or to be content any longer to act as legislative dummies with votes which must be recorded automatically' (Cmd. 1679, 1922, p. 13). Elsewhere the nominated unofficial element has liberty of voting.



manner? Is not this a false analogy from the system of responsible government, where the majority really rules? The Legislative Councils are not designed to mask or diminish the autocratic power of the Governor, but to provide a surety that this autocratic power shall be wisely employed. If a majority of members honestly differs from the official policy, and if it is necessary for the Governor to override the wishes of this majority, it is hardly logical for him to do so by artificially turning the majority into a minority through calling his officials to heel. His is the responsibility, and he cannot hide it behind a majority of automatic votes. Surely some system could be planned whereby official members might be left free to vote as they pleased, or at any rate absolved from voting against their consciences, with power reserved to the Governor to disregard the decision of the Council by means of a special declaration. It would only be on rare occasions that such a power would have to be employed, and the Colonial Office should then act as a court of appeal to which both the majority in the legislature and the Governor could state their case.<sup>1</sup> The analogy between the position of an official member of the legislature and that of a cabinet minister under responsible government is not valid, for the official may have had no share in framing the policy he is called on to support, and resignation for him means the end of his professional career.

'Pure' Crown Colony government meets one great constitutional defect of the old representative system, a defect which is also present in a less degree in the semi-representative forms of government in Jamaica and British Guiana: under it responsibility is clear, and goes with power. It is a renunciation of the attempt to compromise, which has gone to the other extreme from the renunciation of a similar compromise in the Dominions. The executive rules the legislature, and can stamp out opposition. All the arguments in favour of democracy may be used with

<sup>1</sup> Mr. Wood, in his recent report, advises the establishment in the future in certain colonies of legislatures with an unofficial majority, and recommends that the Governor be given power in essential measures to disregard the unofficial vote, if it is adverse; but he suggests that such measures should be carried by the official vote only, and this does not avoid the difficulty described above, that an official may be ordered to vote in contradiction to his own opinions. It seems to me that the whole responsibility in these circumstances should rest openly on the Governor's shoulders. See Cmd. 1679, p. 9.

justice against Crown Colony government; its only possible defence is that in these communities democracy is impossible, and that a truer representation of all classes is reached through the judicious appointment of the legislature by an outside and independent authority, than by the votes of an ignorant and uninterested electorate. When that condition can be shown to exist no longer, the continuance of such a form of government cannot be justified.

The concentration of the responsibilities of government in the hands of the executive, within the executive in the hands of the Governor, and through the Governor in the hands of the Colonial Office thousands of miles away, makes the system liable to serious dangers. In the first place, the personal character and abilities of the Governor become of great importance to the whole community, for he is, if he chooses, a virtual autocrat within the limits of his instructions. If the voice of the people is inarticulate, he must interpret it; he must give way to no prejudice or special interest; in his choice of unofficial advisers he has the means of taking into account local opinion, but he has also the duty of disregarding the advice thus given when he considers it contrary to the interests of the community. A special danger is that it is as a rule easier for the Governor to follow precedent than to create it, and in consequence such a form of rule may become stagnant; for it is a bureaucracy, and in general bureaucracies do not take a long view, nor in particular when they are responsible to an external authority on the other side of the ocean.

Secondly, Crown Colony government is a political blind alley. It is, and must be, paternal, and it gives no chance for education in political responsibility. To regard it as a permanent institution is to give up all hope for the political development of the inhabitants of the colonies in which it prevails. All these colonies are far from being ready to control their own affairs, but some of them may be sufficiently advanced to make a start on the long road which may ultimately lead to responsible government.



## IX

### THE LEEWARD ISLANDS FEDERATION AND OTHER INTERCOLONIAL INSTITUTIONS

#### § 1. *The Leeward Islands Federation*

FROM the time of their earliest settlement there has always been some sort of political connexion between the islands in the Leeward group, with the exception of Dominica. Before 1671 all the British islands in the Lesser Antilles came under the authority of one Governor-in-Chief at Barbados. In that year the difficulties of administering islands so far apart as Barbados and St. Kitts under one executive head, difficulties increased by the jealousy of Barbados planters towards their new rivals in the Leeward Islands,<sup>1</sup> and made especially important by the paramount necessity of defence in those times of continually recurring warfare, caused the creation of a separate Government for the 'Leeward Charibee Islands in America'. St. Kitts, Nevis, Antigua, and Montserrat were its four divisions, and each of these islands had already its own Deputy-Governor, Council, and Assembly, and consequently its own statute-book and treasury. The only change made at first by the appointment of a separate Governor was that the islands were brought more directly under the control of the king's representative than had been possible when he was generally to be found at Barbados.

Sir William Stapleton, when in 1672 he succeeded to the governorship, was not contented with this absence of unity. He at once set to work to break down the strong parochial feeling which had grown up in all the islands by advocating a General Assembly and a uniform system of laws. At first, perhaps as early as 1674, he summoned representatives from each island to meet him for consultation only, and by 1682 he had so far overcome local feeling that he was able to proceed with

<sup>1</sup> Higham, pp. 69-70, 73; Beer, *Old Col. System*, ii. 39.

federal legislation, though he was never able to persuade the members of the island Assemblies that a uniform system of laws would be to their advantage. This first federal Assembly consisted of two representatives each from the Council and Assembly of each island. In creating this body Stapleton strained the vague terms of his Commission, but when he was succeeded by Sir Christopher Codrington the new Governor's Commission included authority to call Assemblies jointly or severally in any of the islands under his command.<sup>1</sup>

In 1705 the General Assembly met at Nevis, and proceeded to define its position by passing an Act which, next to the feeble New England Confederation of 1643, is the oldest federal constitution in the British Empire.<sup>2</sup> The Act recited that the General Council and Assembly had met together 'to consult and enact such good and wholesome laws as may be for the safety and advantage of all Her Majesty's said Islands'. 'Whereas the interest in point of trade and laws of most of the said Islands in some respects do differ the one from the other: Therefore the better to preserve and defend the whole, and to secure to each particular Island their (*sic*) own laws and legal customs which are not of a general concern,' it was enacted that all laws of a local application only should remain in force—the only attempt to differentiate between the spheres of the central and local governments—and that in each island the freeholders should meet on receipt of instructions from the Governor, and elect 'five able and discreet men being freeholders' as representatives for the General Assembly. Decisions made when a majority of the members of the federal legislature were present were to be binding even on islands which were unrepresented—'good and binding to all and every the said Leeward Caribbee Islands to all intents and purposes whatsoever'. The General Legislature was only to meet when summoned by the Governor-in-Chief, and, as no money was raised by its vote, this did not involve regular sessions.

The federation was far from effective, yet, as the only existing example, it was put forward by the Board of Trade in 1721 as a model for a proposed federation of all the North American

<sup>1</sup> Higham, pp. 228–34.

<sup>2</sup> Egerton, *Federations and Unions in the British Empire* (1911), p. 9.



colonies from Nova Scotia to South Carolina.<sup>1</sup> In the Leeward Islands, however, the federal machinery soon disappeared, and it was not until the slavery issue forced the island legislatures to see the desirability of common consultation, that the General Legislature once more became effective. The absence of a definite partition of functions between the local and central legislatures, the fact that no federal revenue was raised by vote of the General Legislature, and the extreme unpopularity of two of the Governors of the Leeward Islands—Parke and Douglas—at the beginning of the eighteenth century, helped to bring Stapleton's work to nothing. In 1798 the General Assembly met for the last time, after a lapse of more than seventy-five years, to discuss the resolution on slavery passed by the House of Commons in 1797. After passing an Act to better the condition of slaves and some further legislation which was disallowed by the Crown, it broke up, and the islands reverted to the position previously described by Oldmixon: 'Every one of these Islands has a particular Lieutenant-Governor, Council, and Assembly; and the general Government centers only in the Authority of the Captain-General.'<sup>2</sup> In 1816 even this authority was divided by the separation of the islands into two governorships for a short period. Soon, however, the home Government definitely adopted a policy of closer union; in 1833 the Secretary of State notified the Governor that 'the time has now arrived for reverting, as far as his Majesty's prerogative extends, to that principle of consolidation', but added that the creation of a General Legislature and courts of justice was beyond the scope of the prerogative.<sup>3</sup> The islands were reunited under one Governor, with the addition of Dominica, which had been a separate colony since 1770.

The feeling against any form of union beyond that involved in a common Governor-in-Chief remained strong and even violent. On this account the home Government refused to sanction the attempt of a Governor in 1837-8 to summon a General Council

<sup>1</sup> O. M. Dickerson, *American Colonial Government* (Cleveland, U.S.A., 1912), pp. 215-16.

<sup>2</sup> Oldmixon, ii. 243. For the last meeting of the General Legislature see Oliver, *Antigua*, i, pp. cxlii-iii.

<sup>3</sup> Dispatch quoted in Woodcock, *Laws and Constitution*, pp. 45 ff.

and Assembly. It was not until more than thirty years later that the local legislatures were persuaded to agree to a revival of the ancient federation, and even then consent was only won by holding out extravagant hopes of the benefits to be gained. In the meantime the islands remained six separate colonies, with no common institution but the governorship, and with so keen a jealousy of each other that in one island a law would sometimes be rejected solely because a similar law had been previously passed in another. In 1869 Sir Benjamin Pine was sent out as Governor with a mandate 'to form these islands into one colony, with one Governor, one Council, one Superior Court, and one Corps of Police'.<sup>1</sup> After eighteen months' negotiation he succeeded in securing the agreement of the island legislatures to an act of federation. 'It must be remembered', he reported, 'that these islands, small and insignificant as they may be, have for centuries possessed forms of government not wholly unsuited to the times when they were founded, but which, while ceasing to be applicable to present circumstances, have kept up among their ruling classes a spirit of self-importance and narrow patriotism which may seem ludicrous but cannot be ignored.' In Dominica, St. Kitts, and Nevis the opposition to federation was especially strong, and in the last it was backed by a show of force. Approval was eventually won, however, in all the islands for the measure, which passed the British Parliament in 1871 as the Leeward Islands Act.<sup>2</sup> This, as amended by the Leeward Islands legislature, is the present constitution of the colony.

The Act established the colony of the Leeward Islands, consisting of six presidencies. These have since been reduced in number to five by the amalgamation of St. Kitts and Nevis in 1882. Federal Executive and Legislative Councils were set up. The latter is known as the General Legislative Council, and sits in annual session in Antigua. It now consists of sixteen members, eight nominated by the Crown and eight 'elected' for three years by the unofficial members of the legislatures of Antigua (3), St. Kitts-Nevis (3, one to live in Nevis), and Dominica (2). When the federation was established, the legislatures of Antigua, St.

<sup>1</sup> The correspondence regarding the federation of the islands is printed in C. 343 (1871).

<sup>2</sup> Imp. Act 34 & 35 Vict. c. 107.



Kitts, Nevis, and Dominica were partly elected ; since that time the elected element has been wholly eliminated in them all, and their unofficial members, who select from among their own number the delegates to the General Legislative Council, are themselves appointed by the Crown. In view of this change, it is rather misleading to find that the Leeward Islands are officially described as 'possessing a partly elected Legislative Council' in company with such colonies as Jamaica and Mauritius, in which the popular representatives are directly chosen.<sup>1</sup> Here the only 'election' involved is the choice every three years by a few Crown nominees of eight of their number to go to Antigua for the federal sessions.<sup>2</sup> The eight nominated members of the General Legislative Council, after trial of various methods of appointment, now all hold their seats *ex officio*, and are made up of the Governor, the chief federal officers, and the executive heads of the presidencies.

The powers conferred on the federal legislature are defined as including the law of property and of persons, mercantile and criminal law, education, the administration of justice, a general police force and convict prison, posts and currency, weights and measures, quarantine, audit, and some other matters. These considerable powers are exercised concurrently with the legislatures of the presidencies, and the latter only are authorized to make laws on any matter not specifically within the competence of the General Legislature. This scheme of listing certain subjects as within the competence of the General Legislature, and leaving the rest, together with concurrent powers over the listed subjects, to the island legislatures, was not what either Sir Benjamin Pine or the Colonial Office wanted, but it was the only system which could be discovered to meet the objections of the island legislatures. Any local legislature may place any further matter it chooses within the sphere of the General Legislature, and if there is a conflict between local and general enactments, the latter prevail. The General Legislature is given power

<sup>1</sup> *Colonial Regulations*, c. I, § I.

<sup>2</sup> The Act provides that 'the said elective members shall be respectively chosen by the unofficial members of the said Island Councils from which they are taken', and that they must retain their island seats. S. 7 in revised Act, *Leeward Islands Acts*, 1914. See also C. 343 (1871), pp. 4, 5.

to amend its own constitution, and this power it has frequently employed. Power is also given by the Leeward Islands Act to His Majesty in Council to add to the federation any other island on receipt of addresses from both parties expressing consent, but use of this provision has not been made, nor does it seem likely to be employed.

The difficulties of federal finance are attacked simply, if unsatisfactorily. Federal expenses are divided into sixteen parts in accordance with the number of representatives from each island in the first General Legislature. Of these Antigua pays 5, St. Kitts-Nevis 6, Dominica 3, and Montserrat and the Virgin Islands 1 each.<sup>1</sup> There is no separate federal revenue, and no federal control over local taxation. As a result each presidency can see clearly the burden which federation places on its finance in the annual contribution which has to be paid for federal expenses out of local revenue, while the benefits conferred are by no means so easily recognizable. To have a separate federal revenue collected by federal officers from taxation imposed by the General Legislature is impossible so long as the whole of the fiscal system is withdrawn from federal control, and their fiscal autonomy is a jealously guarded privilege which the presidencies appear to have no intention of relinquishing.<sup>2</sup> When the federation was formed the Colonial Office wisely desired to have 'a general revenue raised for general purposes' by the General Legislature, but yielded when it became apparent that the retention of separate treasuries was a condition of union.

The federal civil service is small. Besides the Governor, the Colonial Secretary, the Auditor General, and the Inspectors of Police, Education, and Agriculture, are the chief officials on the administrative side, while on the legal side the higher courts are federal, with a Chief Justice and two Puisne Judges as personnel,

<sup>1</sup> This is not the proportion which appears in the yearly appropriation accounts, as the payments made by the presidencies fluctuate according to the expenses incurred for special services. In 1919 the expenses were divided as follows, except for police and military: Antigua 316-1,000, St. Kitts-Nevis 323-1,000, Dominica 281-1,000, Montserrat 67-1,000, Virgin Is. 13-1,000. For police and military the proportions are fixed as 4, 4, 3, 1, and 0 twelfths of the whole respectively.

<sup>2</sup> A system of customs and excise which is practically identical has, however, been adopted by the presidencies.



and a common Attorney General. There is a competent federal police force, but except for the duties discharged by it and by the higher officials indicated above, all functions of government are performed by officials paid directly by the presidencies. In education, for example, the Inspector has as his staff one clerk. This means that policy determined by the General Legislature is carried out by officers paid by and responsible to the local governments, a system which creates obvious difficulties in case of a lack of harmony between central and local authorities, and at the best of times imposes a barrier between the determination of policy and its execution which is a hindrance to good government.

Each of the presidencies except the Virgin Islands has its own Executive and Legislative Councils. In Antigua the Governor of the Leeward Islands is also head of the local Government, and in the other presidencies there are Administrators (St. Kitts-Nevis and Dominica) and Commissioners (Montserrat and the Virgin Islands) to exercise the Governor's authority in his absence. The Governor is required to visit each presidency at least once a year. With certain exceptions in the case of Dominica, all communications between the local Governments and the Colonial Office pass through the Governor's hands.

It cannot be claimed that this constitution has established an effective federal union, though under it useful work has been accomplished in several directions, especially in disentangling the chaos of six different legal systems for little more than one hundred thousand people. The extravagant promises of reduced taxation and greatly improved administration, which were put forward at any rate by the unofficial advocates of federation in 1870, have not been fulfilled, and from the date of its inception the federation has had to meet much criticism and a strongly expressed desire to return to the old system.

The home Government clearly regarded the Act of 1871 as a temporary measure, to be followed by a closer union, and by the inclusion of the Windward Islands in a larger whole. In 1873 the Governor of the Windward Islands (which then included Barbados) was informed: 'You are no doubt aware that in promoting the union of the Leeward Islands and in desiring that the Windward Islands should follow the same course, Her Majesty's Government have not contemplated, unless possibly

as a temporary measure, that Barbados and the other Windward Islands should form a Federation separate from that of the Leeward Islands.' <sup>1</sup> The example of the Leeward Islands, however, aroused no enthusiasm. In 1876 the Governor reported that the new system had in his opinion been 'attended with some degree of success', and that useful work was being done in the General Legislature and in the federal courts, but 'the measure has been from the commencement and still continues to be unpopular with a large section of the community, and what is more singular, no less so at Antigua, the seat of government, than in the junior dependencies'. <sup>2</sup> In 1884 the Royal Commission which examined the finances of some of the West Indian colonies studied the structure of the Leeward federation, with a result which was not flattering. Its report quotes a local definition of the federation as 'a costly impediment to good government', and advises that, since 'these various islands are, at the present time, in the transition stage between isolation and union', the remedy for their discontents is 'the formation of one central legislature for this Colony, in which should be concentrated all the legislative powers now pertaining to the various island legislatures'. <sup>3</sup> *A priori* this may appear an eminently sensible recommendation, but the tenacity of local feeling, based on sounder grounds than mere prejudice, has prevented its acceptance; and the Act of 1871 still delineates in all essentials the form of the government. <sup>4</sup> The only step of any importance in the direction of closer union has been the amalgamation of St. Kitts and Nevis in 1882, and even this is still the subject of bitter complaint in the smaller island. <sup>5</sup>

<sup>1</sup> C. 1539 (1876), p. 8.

<sup>2</sup> C. 1679 (1877), pp. 19-24.

<sup>3</sup> C. 3840-ii (1884), 39, 41-3.

<sup>4</sup> The physical differences between the islands make uniformity of government difficult. The rugged coast of St. Kitts is difficult of approach and easy to protect against smuggling, in contrast with the facility of landing in Antigua; a higher tariff could be enforced in the former than in the latter. Similarly the roads in St. Kitts need constant attention on account of continual erosion, while no such danger arises in Antigua. Dominica differs greatly in many respects from the other islands. A strongly centralized government would probably meet with as many difficulties in conducting an efficient administration as did the old local Assemblies.

<sup>5</sup> The islands were united in a single presidency by Leeward Islands Law 2 of 1882. For the present complaints of Nevis see Cmd. 1679 (1922), p. 36.



The inhabitants of the Leeward Islands have not yet become wholly reconciled even to such an imperfect measure of union as is given by the present federation. Outside Dominica, however, the opposition has ceased to be violent, and the federal government has become a firmly established institution. It is true that demands are still put forward in most of the islands for defederation, but these should be taken as indicating a general discontent with things as they are, rather than an explicit request to revert to the condition of 1870. Defederation has become the political catchword of the moment, which is urged as a panacea for all ills. Mr. Wood advises that the existing system be maintained ; its working, however, ought to be improved in detail, and this improvement he would effect in part by a measure of decentralization, through an increase in the authority and dignity of the Administrator or Commissioner in each presidency and a decrease in the emphasis on Antigua as the seat of the federal government, and in part by a reinvestigation of the incidence of federal finance.<sup>1</sup>

The position of Dominica requires special mention, for it is from Dominica that the bitterest and best-founded complaints against the federation have come. It lies between two French islands a hundred miles south of Antigua, and it differs from the northern islands in a striking manner. It was acquired by conquest, and a French patois is still the language of most of its people ; it is nearly three times the size of Antigua, but has a population only a few thousands larger ; it is in need of economic development, while the northern islands are almost entirely cultivated ; it is an island mainly of peasant proprietors, growing limes and coco-nuts, in contrast with the sugar estates of St. Kitts and Antigua. It is different, in short, ' in physical configuration, in products, history, language, religion, and sentiment '.<sup>2</sup>

In view of these facts and the prevailing discontent, the Royal Commission of 1884 advised that, inasmuch as ' the attempt to include Dominica in the Confederation of the Leeward Islands . . . has introduced much friction and many grave difficulties ', the island should be transferred from the Leeward to the Windward group, since it has much more in common with St. Lucia

<sup>1</sup> Cmd. 1679 (1922), pp. 33-6.

<sup>2</sup> C. 7477 (1894), p. xvii.

and St. Vincent than with Antigua and St. Kitts.<sup>1</sup> This recommendation was not acted on, and the island's condition remained so far from satisfactory that in 1894 another Royal Commission was dispatched to it alone, with Sir Robert Hamilton as sole commissioner. The Secretary of State in his instructions to the commissioner described Dominica as 'more backward and less developed than almost any other of the islands', and its inhabitants as 'less prosperous and contented than Her Majesty's other West Indian subjects', which was saying a good deal at the height of the period when beet sugar backed by bounties was doing its worst for the cane-growers of the tropics. The Commission reported that Dominica's ills were in great measure due to political causes; federation had been forced on the island; 'she has never become reconciled to it. On the contrary the feeling against Federation has increased, and is increasing in strength.' 'Great and immediate benefits', he concluded, 'would result to Dominica if she were withdrawn from the Federation of the Leeward Islands, and her administration were placed under a Lieutenant-Governor, as was the case prior to 1870.'<sup>2</sup>

Sir Robert Hamilton's remedies were only applied in part. The head of the local government was placed in a position of greater independence than in the other presidencies. The Administrator may correspond with, and receive instructions from, the Secretary of State direct on all matters except those which concern the Leeward Islands as a whole, provided that the Governor of the Leeward Islands be sent copies of all such communications.<sup>3</sup> This would not appear to be a very thorough

<sup>1</sup> C. 3840-ii (1884), 40, 43.

<sup>2</sup> See Sir Robert Hamilton's *Report*, C. 7477 (1894), esp. xvii, xviii, xxxiii. Perhaps I may be excused the irrelevancy of disinterring the following petition from the appendices of this forgotten blue-book. It is from a chief of the small remnant of the native Caribs still surviving. 'In the Name of God. My Lord, We humble beg of your kindness to accept our petition of your poor people, Indians or Carai-be, of Salibia, to unbrace the favarable opportunity to addressing you to emlore the marcy of our Beloved Mother and Queen Victoria, for her poor and unfortunate childrens. We dont have nothings to supported us, no church, no school, no shope, no store. We are very far in the forest; no money, no dress, &c. &c. They call us wild savages. No my beloved Queen, it is not savages, but poverty. We humble kneel down in your feet to beg of your assistance. Accept from your humble childrens of Salibia, in the care of Mr. Bruni Michelle. Make at Salibia.' (C. 7477, p. 117.)

<sup>3</sup> Section V of Instructions to Governor of Leeward Islands, 5 May 1904.



remedy for the serious conditions which Hamilton traced to political sources ; certainly it has not satisfied public opinion in the island. Mr. Wood, visiting the island in January 1922, found that the demand for defederation was ' supported by almost the entire community '. He was not prepared, however, to advise that this step be taken. He thought that a further delegation of authority to the Administrator together with improved economic conditions would go a long way towards meeting the legitimate causes of complaint.<sup>1</sup>

### § 2. *The Windward Islands*

In the Windward Islands all attempts to establish an efficient federation or union have been unsuccessful. The colony (or rather group of colonies) at present includes the three larger islands of Grenada, St. Lucia, and St. Vincent, and the little Grenadines. After the Peace of Paris the four islands which were the fruits of victory in West Indian waters, Grenada, St. Vincent, Dominica, and Tobago, were formed into the Government of Grenada, and a general Council of Government was set up for them by the first Governor. This lasted only until 1767, and the initial impulse towards union was followed by a reaction in the other direction. Dominica in 1770 and St. Vincent in 1776 were made into separate colonies, and in 1783 Tobago was ceded to the French. During the American Revolution and the wars of the French Revolution the islands suffered terribly, for, in addition to the danger of external attack, they had a large French population, and their mountains held a number of maroon negroes and wild Carib Indians, who proved excellent material for the machinations of Victor Hugues, the French revolutionary agent in the Caribbean. It was not until the beginning of the nineteenth century that there was a long breathing-space for the organization of settled government.

In 1833 the home Government, in pursuance of its policy of consolidation, joined under one Governor Barbados, Grenada, St. Vincent, and Tobago, and in 1838 added St. Lucia. As in the Leeward Islands, however, each island retained its legislature intact, and the only co-ordinating influence was the

<sup>1</sup> Cmd. 1679 (1922), pp. 19-20, 35, 50-3.

authority of the Governor-in-Chief at Barbados, except that a joint appeal court was instituted in 1859.<sup>1</sup> In the early 'seventies the question of a Windward Islands federation, to include Barbados, was pushed to the front by the home Government. In 1871 the Governor stated definitely that he had been appointed by the Secretary of State to carry out this policy, but that he found in his way difficulties more serious than those in the Leeward Islands, especially on account of the variety of the forms of the local governments and the predominance in wealth and population of Barbados, an island 'which has not acquired for itself a reputation for a generous and cosmopolitan spirit of legislation'.<sup>2</sup> In reply the Secretary of State urged him to hasten the substitution of single chambers with a nominated majority for the remaining Councils and Assemblies in the islands under his command, and informed him that the federation of the islands was 'an object which Her Majesty's Government earnestly desire to see accomplished'.<sup>3</sup>

The effect of the campaign for federation on Barbados has already been described; <sup>4</sup> the rioting of 1876 showed that the proposal was profoundly to the distaste of a section of the people. The planters of Barbados were in a comparatively favourable situation, and they feared that under a federal system they might be called upon to carry the financial burdens of less prosperous islands. They also were alarmed lest the chief cause of their superiority, the abundant supply of plantation labour, would be affected by the encouragement to emigration which federation would afford. The facility of movement of the surplus stock of labourers from island to island in accordance with the demand was, indeed, one of the main arguments of the federationists, and this prospect was not at all to the liking of the planters, however much it might appeal to the impoverished negroes. There was also a sturdy pride in the old constitution of Barbados, and in the long tradition of separate government, which was outraged by the proposal that the island should be placed under

<sup>1</sup> The Windward Islands Appeal Court was set up by Order in Council, 3 March 1859, issued under Imp. Act 13 & 14 Vict. c. 15.

<sup>2</sup> C. 1539 (1876), pp. 1-2.

<sup>3</sup> Dispatches of 2 Nov. 1871, 30 Aug. 1872, and 1 May 1873, in C. 1539.

<sup>4</sup> See above, pp. 83-6.



the same government with modern intruders into the British Empire like St. Lucia and even Grenada. In the other islands opinion at that time was not unfavourable to a closer union. It was not proposed to go further than in the Leeward Islands, and Lord Carnarvon gave assurances that the constitution of Barbados would not be affected (though it is difficult to see how this could be), and that there would be no amalgamation of treasuries. The strength of the opposition in Barbados, however, caused the proposal to be dropped, and it is probable that this was wise, in view of the manifold differences in social and economic structure between Barbados and the other islands.<sup>1</sup>

The Royal Commission of 1884 once more reviewed the question, and came to the conclusion that, since Barbados was of so distinct a type, and Dominica so closely resembled its southern rather than its northern neighbours, Barbados should be separated from, and Dominica added to, the Windward Islands. 'At present', they reported, 'all administrative and executive authority is centered in the office of the Governor-in-Chief in Barbados; an island which has a fundamentally different constitution, and little in common with the other islands, and which makes no secret of its dislike to be connected with them for purposes of administration.'<sup>2</sup> The legislatures of the remaining islands, together with that of Dominica, ought, in the view of the Commissioners, to be fused in a single body 'which might well contain a representative element'. So far as the separation of Barbados was concerned, the change advised was made in 1885 with the eager approval of the local Assembly. For the other four islands a Governor-in-Chief was installed at Grenada,<sup>3</sup> but Dominica remained in the Leeward colony. The suggested amalgamation of the legislatures was supported by the home Government, but was not carried through, since an almost unanimous chorus of protest went up from every island concerned. In 1897 the Royal Commission of that year still pursued the chimæra of federation by advising the re-establishment of the

<sup>1</sup> The papers relating to the proposed federation of the Windward Islands in 1870-76 are printed in C. 1539 and C. 1559 (1876), and C. 1679 and C. 1687 (1877). See also C. 3840-i (1884), 39.

<sup>2</sup> C. 3840-i (1884), 39-40.

<sup>3</sup> By Order in Council, 5 March 1885, and Letters Patent, 17 March 1885. Correspondence printed in C. 4482 (1885).

authority of the Governor of Barbados over the whole Windward group, and possibly over the Leeward group as well.<sup>1</sup> Nothing, however, was then, or has since been, accomplished in the direction of closer union.

Every time that a suggestion has been put forward that federation or fusion would be to the advantage of the islands violent local feeling has been aroused. In 1891 even so mild a proposal as that two islands should share a common Chief Justice caused so threatening a situation in St. Vincent that a warship was sent to maintain order, and in 1905 there was in the same island a time of great excitement following a proposal for union with Grenada. St. Vincent and St. Lucia are not even satisfied with the present arrangement by which the seat of the Governor is in the more populous and prosperous Grenada; they claim that they might just as well be separated entirely under their own Governors, and that the existence of the Governor-in-Chief only interposes an unnecessary step between them and the Secretary of State.<sup>2</sup> A new suggestion, however, is now receiving considerable attention. In 1889 Tobago left the Windward group to be joined to Trinidad. There appears to be growing support for the view that the other islands would do well to follow this example, and win perhaps a new prosperity through association with the most productive colony of the British West Indies.<sup>3</sup>

The actual situation in the Windward Islands to-day is that there is a common Governor, who resides in Grenada, and is represented in the other two islands by Administrators. He is bound to visit each island at least once a year, and must preside at the meetings of the local legislatures 'unless prevented by illness or other grave cause'.<sup>4</sup> Each island has its own Executive and Legislative Councils, of the usual 'pure' Crown Colony variety, and there are no joint councils for any purpose. The Administrators exercise the full powers of the Governor in his absence, but the assent of the Governor is required for all laws except in cases of emergency. There is great variation between

<sup>1</sup> C. 8655 (1897), p. 23.

<sup>2</sup> *St. Vincent Handbook for 1914* (St. Vincent, 1914), pp. 95-6, 145; Cmd. 1679 (1922), p. 78.

<sup>3</sup> Cmd. 1679 (1922), pp. 32-3.

<sup>4</sup> Instructions to the Governor, 7 May 1908.



the islands in law, in tariffs, in education, and even in language. St. Lucia remains the most French of the British West Indies in speech and religion, in custom and legal system. Apart from the Governor, the only common public officer is the Auditor-General, whose salary is borne by contributions from the island treasuries, and the only common institution is a lunatic asylum in Grenada, used by the other islands on repayment of expenses.

### § 3. *Other Intercolonial Institutions*

The union of Trinidad with Tobago is the single modern example in the British West Indies of the fusion of two previously distinct colonies. On 1st January 1889 Tobago was severed from the Windward Islands and joined in a federal union with Trinidad; it retained a separate legislature, statute book, and treasury, and was administered by a Commissioner.<sup>1</sup> In 1899, pursuant to a recommendation of the Royal Commission of 1897,<sup>2</sup> the union was completed by turning Tobago into a Ward (local government district) of Trinidad, with a common treasury, legislature, and laws, except for certain unimportant reservations.<sup>3</sup> The name of the smaller island is preserved in the official title of the colony, Trinidad and Tobago. Thus Tobago ended its stormy career as a separate political unit. It had once been colonized by a Baltic prince, the Duke of Courland; it had been a commercial station of the Dutch; it had been fought over by French and English so keenly that no one could live there; as a French colony it had once given a unanimous vote that Napoleon should be Consul for life, and the next year had passed permanently under the British flag with hardly a complaint. Now it exists as a peaceful adjunct of the flourishing island of Trinidad, in a union which has been productive of much administrative economy and efficiency.

In the colonies on the western side of the Caribbean there has been little progress in the direction of establishing intercolonial institutions. The subordination of British Honduras to Jamaica was ended in 1884, though a trace of it remained until 1911 in the judicial sphere, for the Supreme Court of Jamaica was from 1882

<sup>1</sup> Order in Council, 17 Nov. 1888, issued under authority of Imp. Act 50 & 51 Vict. c. 44.

<sup>2</sup> C. 8655 (1897), pp. 40-1.

<sup>3</sup> Order in Council, 20 Oct. 1898.

until that year authorized to hear appeals from the Supreme Court of British Honduras.<sup>1</sup> The only statutory union in these north-western colonies is the attachment to Jamaica of the two diminutive groups of the Cayman Islands and the Turks and Caicos Islands. The Cayman Islands have been under the authority of the Governor of Jamaica vaguely since the seventeenth century, and definitely by statute since 1863. The Turks and Caicos Islands were brought under the Jamaica Government in 1873. Both groups stand in the same relation to Jamaica ; they are annexed to it, and placed under its legislature for all purposes, with the minor restriction that Jamaica laws are not to apply unless they are explicitly extended to these dependencies. Each of them has kept its own legislature for its local government, and the extensive powers which the Government of Jamaica enjoys have been little exercised.<sup>2</sup>

The West Indian Appeal Court furnishes the latest example of a statutory union between some of the colonies for a special purpose. It had its origin in the Windward Islands Appeal Court, which had been instituted in 1859 for the islands of Barbados, Grenada, St. Lucia, St. Vincent, and Tobago. This court was made up of the Chief Justices of the colonies concerned, and it continued its existence as originally composed, except for the withdrawal of Tobago, until 1919, thus surviving as a link between Barbados and the Windward Islands after their separation. In 1919 it gave way to the West Indian Appeal Court, which covers a wider area, though its jurisdiction is not yet extended to the colonies in the north and west. These were not willing to join with the south-eastern group for this purpose, on account of the great distance and the poor means of transit ; so that the Court covers only the Leeward and Windward Islands, Barbados, Trinidad, and British Guiana. It was set up by an Imperial Act which expressed the results of an intercolonial

<sup>1</sup> The Supreme Court of Jamaica was made Court of Appeal for British Honduras by Order in Council, 30 Nov. 1882, issued under authority of Imp. Act 44 & 45 Vict. c. 36. The arrangement was terminated by Order in Council, 3 Aug. 1911, and appeals from British Honduras now go to the Judicial Committee of the Privy Council direct.

<sup>2</sup> Cayman Islands joined to Jamaica by Imp. Act 26 & 27 Vict. c. 31 ; Turks and Caicos Islands by Order in Council, 4 Aug. 1873, issued under Imp. Act 36 Vict. c. 6.



conference in 1916. It is composed of the seven Chief Justices of the constituent colonies, with three as quorum, and sits under the normal presidency of the Chief Justice of Trinidad. It moves from colony to colony to hear appeals from the highest local tribunals, and its expenses are paid by the local governments in a fixed proportion.<sup>1</sup> The first meeting of the new Court was held in Trinidad in 1920, and at its opening sitting it was greeted generally as the first statutory token of the movement towards some form of political union in the West Indies.

This ends the tale of federation and union in the West Indies. The unsatisfactory federation of the Leeward Islands, the unreal tie between the Windward Islands, the union of Trinidad and Tobago, the subordination of two tiny communities to Jamaica, and the new Appeal Court—these are not much to show as the results of a policy of closer union urged intermittently by the home Government since the early days of last century. It is not, however, in the field of political organization that results have been achieved, but in the new economic and scientific relationships, in intercolonial conference and discussion, and in such valuable institutions as the Imperial Department of Agriculture and the unofficial Association of Chambers of Commerce.

<sup>1</sup> The Court was established by Imp. Act 9 & 10 Geo. V, c. 47. From 1889 to 1919 the Windward Islands Appeal Court was regulated by Imp. Act 52 & 53 Vict. c. 33.

## X

### THE PROBLEM OF POLITICAL FEDERATION

WHEN one contemplates the wide circle of British possessions around the Caribbean Sea, divided into no less than eight colonies and governed by laws made by sixteen separate legislatures, one is left with the impression that here is to be found a waste of effort, an untidiness that calls for rearrangement, diffusion and variety where concentration and symmetry should prevail. In other parts of the British Commonwealth the tendency has been for distinct units which are geographically related gradually to coalesce for some or for all political purposes. Why should the West Indies remain almost as scattered and distinct politically as they were a hundred years ago?

There are many answers to this question, none of them satisfactory by itself. The most obvious is physical. The colonies are divided, as has been noted before, into two parts, a south-eastern group extending from the Leeward Islands to British Guiana, and the three colonies to the north and west which do not even form any sort of a coherent group among themselves, and have as well many points of difference from the southern colonies. It is often forgotten how large the distances are in the West Indies. The Bahama chain alone is a good six hundred miles from end to end; it is 665 miles from Kingston to Belize; from Kingston to Port of Spain or to Barbados is more than eleven hundred miles in a straight line, and still further by the track of shipping. There is no call for inter-colonial trade from north-west to south-east and vice versa, and most of the islands produce much the same sort of things, so that they have little to exchange with each other. Their trade as a whole lies in the export of tropical produce to Europe and North America, and the import of non-tropical produce in return; there is no mutual dependence for supplies. The result has been that intercolonial communications both by steamer and cable are backward. Barbados is much closer



to England, New York, and Canada than it is to Jamaica and Honduras, if time spent in transit alone be considered, for there is no regular line of steamers across the Caribbean, and mails have frequently to be sent through a North American or British port. Even among the Lesser Antilles, though there is a regular service from Canada, communications are inadequate, and the interchange of visitors, and even of news, is surprisingly infrequent.

In these circumstances the spirit of particularism flourishes in a congenial atmosphere, and it is encouraged by the differences, political, social, and economic, of the colonies. It has generally been the case in the past that periods of prosperity, and the more frequent periods of depression, have not visited simultaneously all the colonies. Some of them have been in deep financial distress at a time when others were still in a condition of commercial well-being. Further, with the prosperity of all depending chiefly on the maintenance of foreign markets, violent trade fluctuations are likely to occur through causes over which the colonies have no control. These considerations cause a general reluctance even to consider any form of federation under which the prosperity of one community might be diverted through the action of a central government to assist the distress of another. Again, Barbados is still a plantation island, producing little but sugar, with its lower classes employed as estate labourers; its neighbour, Grenada, is an island of negro peasant-proprietors, who own there more than ten thousand holdings less than two and a half acres in extent, and who export chiefly cacao and spices, but no sugar; Trinidad, a short distance to the south, has a mixture of large estates and small holdings, a variegated population one-third of which is East Indian, and alone of the British colonies it exports mineral wealth of great value. It may be seen from these three examples of the more developed colonies lying close to one another, that their needs are by no means identical; and this divergence is accentuated when comparatively undeveloped islands such as Dominica and St. Lucia, and the thousands of square miles of untouched territory in Guiana and Honduras, are taken into consideration. Though with few exceptions the colonies have emerged to a new prosperity from the despotism

of sugar, a despotism which weighed them down until a few years ago, this prosperity is not yet sufficiently stable; and its evolution has not been sufficiently uniform, to break down the barriers of financial particularism. Some of the successors of sugar, such as Dominica's limes and St. Vincent's arrowroot, are proving even more fickle masters than sugar used to be. The urgency of economic problems has prevented the development of any real West Indian patriotism; and until some such feeling comes into existence, call it what one will, the first requisite for the establishment of a federation of any sort is lacking.

These economic difficulties, however, can here only be mentioned. Their effects have been exaggerated by the political isolation of the colonies from each other in the past, and there are signs that time will do a great deal towards removing them as obstacles to federation. There are in addition serious political difficulties which would have to be overcome before any central legislature could be set up. The various attempts at manufacturing a constitution for a United West Indies which have been made in recent years disregard more or less completely the variety in the forms of the colonial governments, or else avoid it by proposing the simultaneous introduction of responsible government in them all.<sup>1</sup> This variety, nevertheless, is a real difficulty, which is especially prominent in financial questions. A colony such as Barbados or British Guiana will not willingly relinquish its financial autonomy in favour of a federal legislature which may contain a majority of Crown nominees; but a partial relinquishment would be necessary, either by an agreement to pay a fixed proportion of federal expenses, the unsatisfactory method in the Leeward Islands, or by making over some sources of revenue to the federal authority. A workable scheme might be devised if all the constituent parts were under either representative or Crown Colony government.

<sup>1</sup> The best scheme is that in C. G. Murray, *A United West Indies* (1912). The author realizes the difficulty of combining in one legislature representatives of such diverse political systems as those of Barbados and Trinidad, but gets around it by making the federal authority depend too much on the local governments, so that it would probably be too weak for effective action. See also Salmon, *The Caribbean Confederation* (n. d.), and Meikle, *Confederation of the B. W. I., &c.* (1912).



With the present medley, the creation of a central power having more than advisory functions seems to offer a constitutional problem impossible of solution. There is no likelihood of those colonies which possess any form of representative institutions consenting to their abandonment, and there is even less probability of the Imperial Parliament intervening to introduce a uniform system of administration under the complete control of the Crown; so that it would appear that federation must wait, at any rate so far as the establishment of a central legislature is involved, until some form or other of representative government has been extended to all the West Indian possessions.

The proposal that the West Indian colonies should be admitted to the Canadian Confederation need not be dwelt upon. In its constitutional aspect it gives rise to all the difficulties just noticed, and to other and still more complex problems which it is unnecessary to explore. The transfer of the West Indian section of the Colonial Office from London to Ottawa seems to be the only method of union which is constitutionally feasible; this would in effect make the West Indies Canadian, instead of British, colonies, and such a move would meet with an almost unanimous opposition in the West Indies. The question of closer trade relations is not bound up with the problem of establishing some sort of political connexion. The West Indies and Canada are complementary markets for many products, and there is a wide field for commercial expansion on both sides, especially at the present time when the intervening territory is protected from the inroads of Canadian and West Indian competition by the United States tariff wall. The two Canada-West Indies trade agreements of 1912 and 1920 are preliminary steps. It only requires time and enterprise to strengthen the commercial ties with Canada; but the prospect of any political connexion being created is so remote that it may be dismissed from consideration.<sup>1</sup>

<sup>1</sup> In 1884 advances were made to Canada by both Jamaica and Barbados on the question of federation. Of them Sir John Macdonald wrote: 'It cannot come to anything, but still we should hear what they have to say, as it is a high compliment to Canada to have such a desire to join her political system coming from other colonies' (Pope, *Correspondence of Sir J. Macdonald*,

Another suggestion to provide the means of closer co-operation between the West Indian colonies disregards the establishment of a federal legislature. It has been proposed that the Crown should exercise its rights retained by prerogative, and unite the executive government of the West Indies under a single Governor-General. The executive governments of all the colonies are directly under the control of the Crown, and therefore the machinery by which such a change could be effected is already in existence. From that point of view the scheme is certainly practicable. It has, in fact, been tried in the past without success, for between 1830 and 1840 several of the colonies were placed under Lieutenant-Governors with a Governor-General in charge; this failure, however, before the days of steam communication, hardly provides a precedent for modern times. This form of union was advocated by Sir Robert Hamilton in his report on Dominica in 1894; he wished to see 'an administrative union of all the British Antilles under one Governor-General', assisted by a federal executive paid from imperial funds with head-quarters at Barbados, the union at first to include, apparently, the colonies of Barbados and the Leeward and Windward Islands.<sup>1</sup> The Royal Commissioners of 1897 looked with favour on a similar proposal for the Lesser Antilles, but rejected the idea of a West Indian Governor-General on the grounds that such an appointment would not permit any serious reduction in local establishments, and would mean an additional establishment and a special vessel for the Governor-General.<sup>2</sup>

It is certain that the prevailing particularism is disadvantageous to the colonies in many respects, but a federal executive with no federal legislature would not be any solution. Any

Toronto, 1921, p. 312). In 1911 the Bahamas Assembly made similar advances, with a result equally fruitless.

<sup>1</sup> C. 7477 (1894), p. xxxvii. See also *Supplementary Remarks* (C. 3840-iii) of Royal Commission of 1884.

<sup>2</sup> C. 8655 (1897), p. 23. Sir Samuel Hoare has recently urged this form of federation in an article in *The Nineteenth Century* (April 1921). His view that the West Indies speaking with one voice would be in a far stronger position than they are at present, is not open to dispute; but, with a federal executive only, the single voice would be liable to contradiction from all the local legislatures.



project which a federal government of this sort might wish to carry out would have to win the approval of all the separate legislatures before any colonial funds would be forthcoming for its execution, and the legislatures in which the elected members have powers over finance have proved themselves by no means amenable to outside dictation or influence. The position of the Governor-General would be one of extreme difficulty; only in those colonies in which the Crown has full financial control—and that excludes all the most important colonies but Trinidad—would he be sure of finding support; his proposals would be debated in a dozen different legislatures, and it would be physically impossible for him to put forward his views in them all. It would be as though the revenue of the Government of Great Britain were raised by the Town and County Councils alone, each possessing the right of veto, so far as it was concerned, on the measures proposed by the Cabinet.

If the omens are not propitious for the early introduction of any sort of federation, there are many signs, at any rate, that the spirit of co-operation is growing. There is an increasing desire that the knowledge and experience of the colonies should be pooled through the meeting of periodical conferences of experts. *Ad hoc* conferences of the colonial governments first made their appearance at about the time of the emancipation of the slaves. Lord Elgin was chairman of a conference on immigration held in Jamaica in the early 'forties, and another conference met in the same island in 1845 to discuss the establishment of a common convict station. Since then similar meetings have been held from time to time, but it is only in the last twenty years that there has been developed what may be called a regular conference system. The most complete example is in the case of quarantine. The south-eastern group of colonies held a conference on this subject in 1904, as a result of which a uniform system of quarantine regulations—a very useful assistance to intercolonial intercourse in a part of the world where yellow fever is generally present—was adopted by the local legislatures. In addition a permanent method of revision was inaugurated, in accordance with which a conference on quarantine meets at Barbados every third year by statutory obligation, under a President appointed by the Secretary of

State. It may also be convened at any time on the request of the President or of any two signatories to the convention.<sup>1</sup> Recent *ad hoc* conferences have been held on customs, communications, education, and medical administration, and agricultural conferences under the aegis of the Imperial Department of Agriculture are of regular occurrence. The West Indian Appeal Court is the result of a conference, and so also are the two trade agreements with Canada of 1912 and 1920. Though only the south-eastern colonies have participated in most of these meetings, representatives have come to some of them from Jamaica and Honduras. In most cases the advice tendered to the local legislatures as a result of the conferences has been accepted, and there is plenty of evidence that in certain subjects co-operation is easily arranged.

Starting from this established basis of frequent conference, Sir Edward Davson has recently made a simple suggestion for creating permanent conference machinery. This proposal has behind it much experience of intercolonial affairs gathered by its author from his position as President of the Associated West Indian Chambers of Commerce. He advocates what would be in effect a joint executive council of the colonies, but one which would avoid the great objections to an executive union, in that it would have only advisory powers. This central council would consist of ten members appointed by the Secretary of State for the Colonies, and would include the Governors of all the colonies concerned. It would be supplemented by sections or panels to consider the various subjects which are capable of uniform regulation, such as the tariffs, law, medicine, education, and police, and these panels would be composed of the heads of the appropriate departments from each colony. Each section would meet every three years for an interchange of views, and any recommendations they might make requiring legislative action would be submitted by them to the Council. The Council would forward to the local governments any of these proposals of which it approved, for submission to the legislatures. In this way schemes for the general adoption of similar methods of administration would come before the local

<sup>1</sup> Cd. 2775 (1905), and the local acts putting the convention in force—e.g. Barbados Act 7 of 1909.



legislatures after exhaustive consideration by the experts in each department. Further, Sir Edward Davson makes the ingenious suggestion that the Council might be provided with a revenue sufficient to pay its own expenses and leave something over for general subsidies, through the starting of a West Indian currency, and the reservation to the Council of the seigniorage on its issue; this, he estimates, might amount to as much as £80,000 a year.<sup>1</sup>

This proposal, even if the departmental experts were never able to agree, would at least provide a means for regular consultation and the pooling of ideas and experience. It would be, as its author notes, only a temporary step; but some such step is necessary before opinion can become ready for a closer union. Even these modest suggestions go too far to allow of their acceptance for some time; but they offer a natural line of progress, through the development of institutions which are already at work. That the need for united action is real and growing cannot be denied, nor can the disentanglement of the medley of laws and legal practices, varying for no reason from colony to colony, be regarded as anything other than beneficial. The obscurity which settled over the Caribbean during the nineteenth century has been in part dissipated in the twentieth. The opening of the Panama Canal has placed some of the colonies on the line of one of the great trade routes of the world. The days of petty island governments are passing; they are survivals from an age when steam and cable had not humbled the pride of the sweeping trade winds, of a time when a voyage from Jamaica to Barbados might easily be a matter of months. Though the obstacles in the way of closer union are real and numerous, and are not likely to be overcome for many years, any step which will hasten the evolution of the colonies through co-operation to federation will almost certainly be to their ultimate advantage.

In a chapter which has dealt in part with the progress of intercolonial co-operation, some mention should be made of the Imperial Department of Agriculture. This most useful institution was established as a result of the recommendations of the

<sup>1</sup> Sir Edward Davson's scheme is set out in a letter to the Under Secretary of State for the Colonies dated 22 Sept. 1920.

Royal Commission of 1897, sent out to investigate the causes of, and remedies for, the distress in the West Indian colonies. The principal cause of the depression was the fall in the price of sugar, and this fall was stimulated by the payment of bounties on the export of beet sugar in the European countries which were its chief producers. The Commission reported strongly in favour of encouraging the growth of other products than sugar, but found that 'the cultivator of one product is often quite ignorant of the best means of cultivating any other, and does not know whether his soil and climate might be better adapted for something else'.<sup>1</sup> To help in remedying this condition, and to improve methods of cultivation generally, they suggested that a new department be set up, financed at first from imperial funds, to look after the Lesser Antilles especially, where the need was greatest and the local governments poorest. This recommendation was accepted, and in 1898 a Commissioner was appointed with his head-quarters at Barbados, having the Leeward and Windward Islands under his direct supervision, though he was to advise for all the colonies when asked to do so. It is impossible here to follow the admirable work of this department, but it must be noted as an intercolonial institution of the highest utility, performing a service in which the concentration of skill and experience has proved of great and immediate value to all the colonies. Mainly as a result of the department's work, the West Indian Agricultural College has just been established in Trinidad as a joint educational institution supported by contributions from the neighbouring colonies.

<sup>1</sup> C. 8655 (1897), p. 18.



## XI

### THE PROBLEM OF REPRESENTATIVE GOVERNMENT

THE two great political problems of the West Indies are federation and the form of representative government, and these are so closely connected as to depend largely on the same condition. It has been seen how great an obstacle in the way of federation the present constitutional variations are, and that to avoid this obstacle it is necessary either that the Crown should come to control wholly all the local legislatures—a solution so unlikely that it may be put outside consideration—or that a more or less uniform type of representative government should be introduced. The condition, therefore, which connects the two problems, and which lies behind all discussions of the political future of the West Indies, is the fitness of the negro to play his part in a self-governing community, and this question is one on which there is naturally a wide diversity of opinion. As it is all-important, it is perhaps well to glance briefly at the present position of the negro inhabitants of these colonies.

One finds great differences in language, religion, mode of life, and attitude of mind, from colony to colony. There is no West Indian negro type. But it should be emphasized that the negro in the West Indies is a very different person from his racial kin in Africa, so different that when the West Indian goes to Africa he is said to be there regarded by the African negro as rather more alien than the white man. The descendant of slaves in the West Indies has had perforce to follow in the footsteps of his one-time masters. His African past is lost in the abyss of slavery, and such civilization as he has developed is a European civilization, his institutions are European institutions, or, as in Haiti, rough caricatures of European institutions, and if he is to progress and develop the course which he must follow is guided by European practice. His stock is no longer pure African in blood; between one-fifth and one-seventh of the negroid inhabitants of the British colonies are partly

white ; and from this section come many individuals of superior attainments, who are to-day occupying positions of dignity and importance.

Secondly, there is no negro problem in the West Indies in the sense in which the phrase is used in the southern United States. Let us on this point accept the testimony of an American philosopher on the situation in Jamaica :

‘ The plantation life, in the days before emancipation, was much sadder and severer, by common account, than ours in the South ever was. Both the period of emancipation and the immediately following period were of a very discouraging type. In the sixties of last century there was one very unfortunate insurrection. The economic history of the island has also been in many ways unlucky even to the present day. Here, then, are certain conditions which in some respects are decidedly such as would seem to tend toward a lasting state of general irritation, such as you might suppose would make race-questions acute. Moreover, the population, being a tropical one, has serious moral burdens to contend with of the sort that result from the known influences of such climates upon human character in the men of all races. And yet, despite all these disadvantages, to-day, whatever the problems of Jamaica, whatever its defects, our own present Southern race-problem in the forms which we know best simply does not exist. There is no public controversy about social race equality or superiority. Neither a white man nor a white woman feels insecure in moving about freely amongst the black population anywhere on the island. . . . On the whole the negroes and coloured population, taken in the mass, are orderly, law-abiding, contented, still backward in their education, but apparently advancing. They are generally loyal to the government. The best of them are aspiring, in their own way, and wholesomely self-conscious. Yet there is no doubt whatever that English white men are the essential controllers of the destiny of the country. But these English whites, few as they are, control the country at present with extraordinarily little friction, and wholly without those painful emotions, those insistent complaints and anxieties, which at present are so prominent in the minds of many of our own Southern brethren. Life in Jamaica is not ideal. The economical aspect of the island is in many ways unsatisfactory. But the negro race-question, in our present American sense of that term, seems to be substantially solved.’

How has this come about ? Professor Royce answers without hesitation, ‘ by the simplest means in the world—the simplest,



that is, for Englishmen, viz. by English administration and by English reticence.' The first has done the larger part by the resolute suppression of racial discrimination. As for the second, 'the Englishman, in his official and governmental dealings with backward peoples, has a great way of being superior without very often publicly saying that he is superior.'<sup>1</sup> Of course, this is not the whole truth. 'English administration and English reticence' have a much more favourable ground to work on than any in the Southern States. It may almost be raised to the dignity of a general axiom that where races of different colours are mixed, the more nearly they approach to a parity of numbers, the more likely is there to be trouble between them. In the West Indies the negro is in such a vast majority that conditions make for harmony. The colour line is drawn most strictly in Barbados, where the plantation system still persists, and in the Bahamas, where the influence of the United States is strongly felt; but in neither colony is there tension comparable with that in the Southern States. To deny that there is any racial feeling would be to go much too far; but it is reasonable to say that such racial feeling as there is does not at present constitute a bar to the fair and impartial administration of the government.

The West Indian negro is very far from being a transplanted African savage, nor does he live on terms of perennial suspicion and ill will towards his white neighbours. There is a coloured *intelligentsia*, and below it in the social scale much progress has been made in the creation of a new and natural civilization founded on peasant proprietorship. An examination of the assessment rolls in Jamaica for 1919 reveals the fact that no less than 145,793 properties in the island were valued below a total value of £100, 10,304 were rated between £100 and £1,000, and only 1,040 over £1,000.<sup>2</sup> The cultivated land in Grenada is almost entirely in the hands of small holders, and the

<sup>1</sup> J. Royce, *Race Questions, Provincialism, and other American Problems* (New York, 1908), pp. 19-26. On Trinidad Professor Royce comments: 'The widely different conditions of Trinidad suggest, despite the differences, a somewhat similar lesson. Here also there are great defects in the social order; but again, our Southern race-problem does not exist.' On the whole question see also Sir Sydney Olivier, *White Capital and Coloured Labour* (1906).

<sup>2</sup> *Jamaica Handbook*, 1920, p. 325.

system of peasant ownership has been widely extended in all the colonies except Barbados, Antigua, and St. Kitts. In the view of competent observers, the prospect to be discerned in the economic future of the West Indies is one of a gradually extending system of small negro holdings, without necessarily the elimination of large estates, as there is still much vacant land.<sup>1</sup> The pessimist is inclined to look on this with dismay, as a relapse towards a barbaric condition in which each family extracts a meagre living from the soil by scratching its surface when moved by hunger, and spends its days in a state of almost complete indolence. The optimist, who appears to have the better of the argument on the basis of achieved results, looks to education, both general and technical, and the elimination of the prevalent tropical diseases, to bring into existence a race of healthy and industrious peasants, living in a society as stable and prosperous as one based on the export of tropical products to temperate markets can be. At any rate this growth of a peasant proprietary has been considered sufficiently hopeful by the governments of several colonies for them to give it direct assistance through the expropriation of large derelict estates for division into small holdings.

In this new social order the prospect of the education of the negro to assume with a reasonable efficiency the burden of his own government is brighter than it could be with the lower classes wholly employed as wage-earners on great estates. Of course, some deny that the negro is capable of such political education, and their arguments are not without colour of reason; but the answer seems to be: How do they know? The conditions in the West Indies are unique, and analogies from experience elsewhere have little application. The West Indian precedents afford no adequate means of arriving at a sound

<sup>1</sup> Experiments are being tried, in some cases with a good measure of success, to get away from the necessity for plantation cultivation of sugar, a necessity caused by the need for early crushing of the cut cane in expensive mills. Co-operative sugar mills are now being built, with the support, and sometimes under the management, of the Government, to which the peasant farmer can bring his new-cut cane before it has had time to ferment. If this system of 'cane-farming' proves to be practicable, there is no reason why the peasantry should not in time produce the bulk of what is still by far the most important staple product of the West Indies.



judgement; the comparative failure of the experiments in democratic local government, and the general lack of interest in political issues manifested by the lackadaisical elections, cannot be held sufficient proof that at no future date will the negro citizen be capable of self-government. It may be true that generations more of autocratic government under the Crown would be to the general advantage of the colonies; but serious departures have already been made from the system of 'pure' Crown Colony government, and the steps thus taken cannot be retraced. Further, there is a powerful demand at the present time for the extension of representative government in most of the colonies, and it seems as though some alteration in the way of admitting elected members to the legislatures will have to be made almost at once.

In view of this demand, which has grown more insistent with great rapidity in the course of the last two years, the constitutional problem has to be faced, and an attempt must be made to determine what form of political organization is best suited to the particular conditions of the more advanced West Indian colonies. The movement for political reform is most powerful in Grenada, St. Lucia, St. Vincent, Dominica, and Trinidad and Tobago, among the 'pure' Crown Colonies, and there is agitation in Jamaica for the extension of the powers of the elected members. The objects of the reformers are generally not accurately defined; they content themselves with such phrases as: 'it would conduce to the better administration of the affairs of the Colony if the people were given a direct voice in the counsels of Government.'<sup>1</sup> There is little of that passionate desire for political rights which has been often the strength of reform movements elsewhere. The real force behind the movement does not come from phrase-mongers and demagogues, but is caused by an honest desire to work an improvement in the administration. It has been felt, and in many cases justly felt, that the Government is out of touch with local needs and desires, and it is sought to remedy this by an infusion of elected members into the Legislative Councils.

There is no desire in any of the colonies for the replacement of the official executive, controlled by the Crown, by cabinets

<sup>1</sup> Petition from Trinidad and Tobago in 1921.

responsible to the legislature. The time has not come for responsible government, nor is there evidence that it will arrive for many years. All the colonies are working communities, in which the few men of education and property can ill spare time even to sit in the legislatures, much less to assume executive duties. Even if such men were available, the population of all the colonies is far too backward in political matters, and in some of them too divided into racial groups, to control its own government intelligently and to provide the necessary background of a steady public opinion. At first the idea is attractive that an intermediate stage might be found for the West Indies by the adoption of a system similar to that recently introduced in India. In some respects the political problems of the West Indies and India are alike, however different the scale; and in Indian dyarchy a new solution has been sought, in a new form of compromise between autocracy and responsible government by which some of the duties of government are handed over to ministers responsible to the legislatures, while the most vital services are retained in full control of the Crown. This division, however, would mean a specialization in the administrative services far more complete than that which exists in any of the colonies with the possible exception of Jamaica. Nor would dyarchy avoid the difficulty that competent men are not available to act as cabinet ministers. Further, dyarchy is intended as a temporary halt on the way to self-government, and in the West Indies there is no demand at all for *Swaraj*, or complete home-rule. The task in India is that of turning an ancient civilization, or medley of civilizations, into the ways of western democracy; in the West Indies it is one of taking a people whose accepted canons of civilization and politics are derived from those of Christendom, but who are almost totally deficient in political training and experience, and placing them in a position from which they may ultimately become capable of governing themselves. The ends to be kept in view may not be dissimilar, but the materials to be worked on are so vastly different that they cannot be treated by similar means.<sup>1</sup>

<sup>1</sup> For a further discussion regarding the inapplicability to the West Indies of responsible government or dyarchy, see Mr. Wood's *Report* (Cmd. 1679, 1922), pp. 7-8, 10-11.



Both the immediate introduction of full responsible government and its partial introduction by means of a form of dyarchy may therefore be put aside as quite impracticable. Yet it must be admitted that the first lesson to be learnt from the examination of the wide range of experiments in the forms of colonial government which have been tried in the West Indies, appears to be the same as that which has been arduously discovered in other parts of the Empire; and that is, that no satisfactory compromise based on a division of powers between the legislature and executive can be devised between autocracy and self-government. In other words, in the long run the legislature must rule the executive, or the executive must be able to control the legislature, and there is no middle course. It is the second alternative that must prevail in the West Indies, since responsible government has been ruled out. The problem, therefore, presents itself in the form of an inquiry as to how far it is possible to associate elected representatives in the work of colonial government, without preventing the exercise of his ultimate responsibility by the Secretary of State for the Colonies. The answer given at the time when the old representative constitutions were being swept away after the Jamaica rising of 1865, was that such an association was undesirable, and that nomination was the best method of selecting the colonial legislatures. Since that period the old, embittered, white electorate, which fought against the exercise of the authority of the Crown time after time, has disappeared, and the attitude of all sections of the community towards the Government has changed fundamentally. There is little danger of elected representatives to-day approaching in intransigence their predecessors of seventy years ago, provided that the Colonial Office and the Governors are moderately wise and sympathetic.

Mr. Wood, in his valuable report, faces the issue squarely, and decides in favour of the introduction of elected members into the legislatures of several of the colonies. He makes no very radical recommendations. As a first stage he proposes that a part of the nominated unofficial members in the legislatures of Trinidad, St. Vincent, St. Lucia, and possibly Dominica should henceforth be elected, but that the official majority should be retained as at present. This concession has already

been made in the case of Grenada in the spring of 1921, but the new constitution has not yet come into force. As a second stage Mr. Wood advises 'the adjustment of numbers with the effect of transferring the majority held by the official "bloc" to the hands of the elected and nominated elements conjointly'. This would mean a Legislative Council composed, let us say, of six official and four unofficial nominated members, and perhaps five elected members. In such a chamber the Governor would probably be able to get sufficient support from the unofficial nominated element to keep a majority, if his conduct were reasonably wise. But a possibility of deadlock remains, and a constitution which allows this possibility is *ipso facto* a bad constitution. Mr. Wood therefore recommends that in all colonies with an unofficial majority in the legislature the Governor should be given authority to carry by the votes of the official members alone measures which he declares to be 'essential to the good government of the Colony'. This power he should not exercise without a previous reference to the Colonial Office, if possible; and in any case his action would be reviewed by the Colonial Office. In this way the unofficial section would be prevented from rendering the executive impotent, and the lines of responsibility would be kept clear.

Mr. Wood, in his general recommendations, goes no further than the suggestion of an unofficial majority in the legislatures made up of a mixture of nominated and elected members, though he advises a more advanced type of constitution to meet the special needs of Jamaica.<sup>1</sup> He does not agree with the proposal that elected members of the legislature should as of right be represented on the Executive Council. 'The position of an elected member on an Executive Council,' he says, 'with the majority of which he perpetually disagrees, or alternatively the position of executive councillors perpetually overriding by a majority the elected members sitting there, would rapidly become impossible.' He suggests, however, that advisory Executive Committees might be set up, to bring the executive into touch with the desires of the elected members during the period of the formation of policy, and to acquaint the elected members with the machinery of government.<sup>2</sup>

<sup>1</sup> See above, pp. 134-5.

<sup>2</sup> Cmd. 1679 (1922), pp. 8-10, 27-8.



In discussing in a previous chapter the working of the constitution of Jamaica, some of the main difficulties involved in governments of this semi-representative type have been examined. There is here little training in political responsibility for the elected member, and behind him for the community. The elected section are openly placed in the position of critics, knowing that they will never be called on to carry their criticisms into effect. It must be remembered, on the other hand, that the demand in the West Indies is for 'a direct voice in the counsels of government', not for the control of the government, and it is hard to discover any alternative line of progress to that indicated by Mr. Wood. Public opinion in the West Indies is temperamental rather than rational; a good Governor is of far higher value than a good constitution. Given intelligent direction both from the Colonial Office and on the spot, Mr. Wood's scheme will probably satisfy West Indian requirements for many years to come. Friction between executive and legislature will not be avoided entirely, for it can only be avoided under autocracy or responsible government. But if the power of the Governor to carry essential measures over the heads of the elected members is not allowed to get rusty, so that its use would appear tyrannical, there is an easy way out of deadlocks.

It will be many decades before the dream of a self-governing West Indian dominion can come true, but progress is being made in that direction, and it is well that this should be realized. The idea is still current that the British West Indies are unimportant and worn-out sugar colonies, peopled by lazy and degraded beings of motley hue. The facts are that the colonies to-day are more populous and productive than they have ever been before. It is true that their relative importance in the world has greatly declined; but they are still far from reaching their maximum of productiveness, even setting aside the huge unopened areas in the two continental colonies. Further, in them is being tried a great social experiment in the education of the negro people, and though the economic conditions are far from ideal for its success, the political circumstances and the absence of open racial hostility make them a testing-ground from which hopeful results may be expected.

## APPENDIX

### POPULAR REPRESENTATION IN LOCAL AND MUNICIPAL GOVERNMENT

IT is impossible for any one who lacks long experience of West Indian affairs to attempt to write adequately of the forms of local government, at any rate without a special investigation on the spot. There is as great a variety in the systems of local administration as there is in the forms of the colonial constitutions. A possible means of training a backward populace in political affairs might be found in the gradual assumption by elected representatives of the control of local government. But little progress seems to have been made as yet in this direction. Except in Barbados and Bermuda, and perhaps in one or two municipal corporations elsewhere, the hand of the central executive is laid heavily on such local bodies as exist. In several colonies there is no separate machinery for local government at all except in the capital, and the central executive is responsible for the whole province of administration.

I only attempt to enumerate below some of the chief features in each colony, with special reference to the question of the admission of elected representatives.

*Bahamas.* There is no independent system. The affairs of Nassau and the island of New Providence are controlled by nominated *ad hoc* Boards responsible to the Governor, to which, however, he must by statute appoint a certain number of members of the Assembly. The 'out-islands' are governed by Commissioners named by the central executive.

*Barbados.* There are eleven annually elected parish vestries, with from six to sixteen members, sitting under the chairmanship of the rectors. The vestries deal with poor relief, sanitation, and highways, and levy local rates. These bodies, like the constitution of the colony, are survivals from the past. They stand in a position of considerable independence of the executive government, the franchise for their election is restricted, and their existence has hindered efforts to improve sanitary conditions on the part of the colonial government. (See Sir R. W. Boyce, *Health, Progress, and Administration in the West Indies*, 1910, pp. 127 ff.)



*Bermuda.* The system is very like that in Barbados. There are eleven parish vestries, with twelve members in each, elected annually. The towns of Hamilton and St. George have been incorporated since the end of the eighteenth century, and have each their Mayor, Aldermen, and Common Council.

*British Guiana.* Georgetown and New Amsterdam are incorporated municipalities. Georgetown has an elected Council of nine, and New Amsterdam one of six, to each of which the colonial government is empowered to add three further members by nomination. There are also twenty-one village districts with local authorities which may be partly elected at the discretion of the colonial Local Government Board, and forty-seven country districts which for certain purposes come under nominated local authorities.

*British Honduras.* The Town Board of Belize is the only local authority. This is partly elected, but it is left to the Governor to determine the proportion of elected and nominated members. Outside the capital local affairs are administered by District Commissioners appointed by the colonial government.

*Jamaica.* The colony has perhaps the most highly developed system of local government in the West Indies. Kingston has an elected Mayor and City Council, but many of the more important civic services are controlled by the nominated Kingston General Commissioners. Local affairs in the rest of the island are controlled by fourteen Parochial Boards. These are composed (except that of Port Royal) of the Custos of the parish (who is appointed by the Governor for life), the local member of the Legislative Council, and from nine to fifteen others, who are elected on the same low franchise as the Legislative Councillors. They have powers over sanitation, poor relief, roads, water supply, and other matters, and they levy local rates. The Boards cannot be said to have worked very satisfactorily since their introduction in 1885. Their duties are not clearly defined, and candidates of sufficient merit have not been forthcoming. But the main reason appears to be that they have not been given enough responsibility by the central government. The Governor is empowered to dissolve any Board, and replace it by a single Commissioner. The policy carried out by the Boards is determined almost entirely by the central government, of which they are rather subordinate agents, than responsible authorities performing on their own initiative duties essential to the national life of Jamaica. (See Cmd. 1679, 1922, pp. 16-17, for a scheme of reform.)

*Leeward Islands.* The only local authority on which elected members sit is the Town Board of Roseau, the capital of Dominica. This is made up of three nominated and five elected members.

*Trinidad and Tobago.* Port of Spain is governed by a Mayor, five Aldermen, and fifteen Councillors elected for a three-year term. San Fernando and Arima are also incorporated, and have elected Borough Councils. There are in addition seven District Road Boards, each composed of three nominated and six elected members, to assist the Warden of each district. The Port of Spain Corporation is a body of some independence and authority.

*Windward Islands.*

*Grenada.* Grenada has six District Boards, made up of an equal number of nominated and elected members. Their powers resemble those of the Parochial Boards in Jamaica, and they seem to have worked fairly successfully. Their existence was quoted by the Secretary of State for the Colonies in 1921 as a reason for granting the petition from the colony for the inclusion of some elected members in the colonial legislature.

*St. Lucia.* The only elected body of any sort on the island is the Castries Town Board, made up of eight members chosen by a limited electorate.

*St. Vincent.* Four out of eight members of the Kingstown Town Board are elected by the more substantial ratepayers of the capital. This is the only instance of election on the island.



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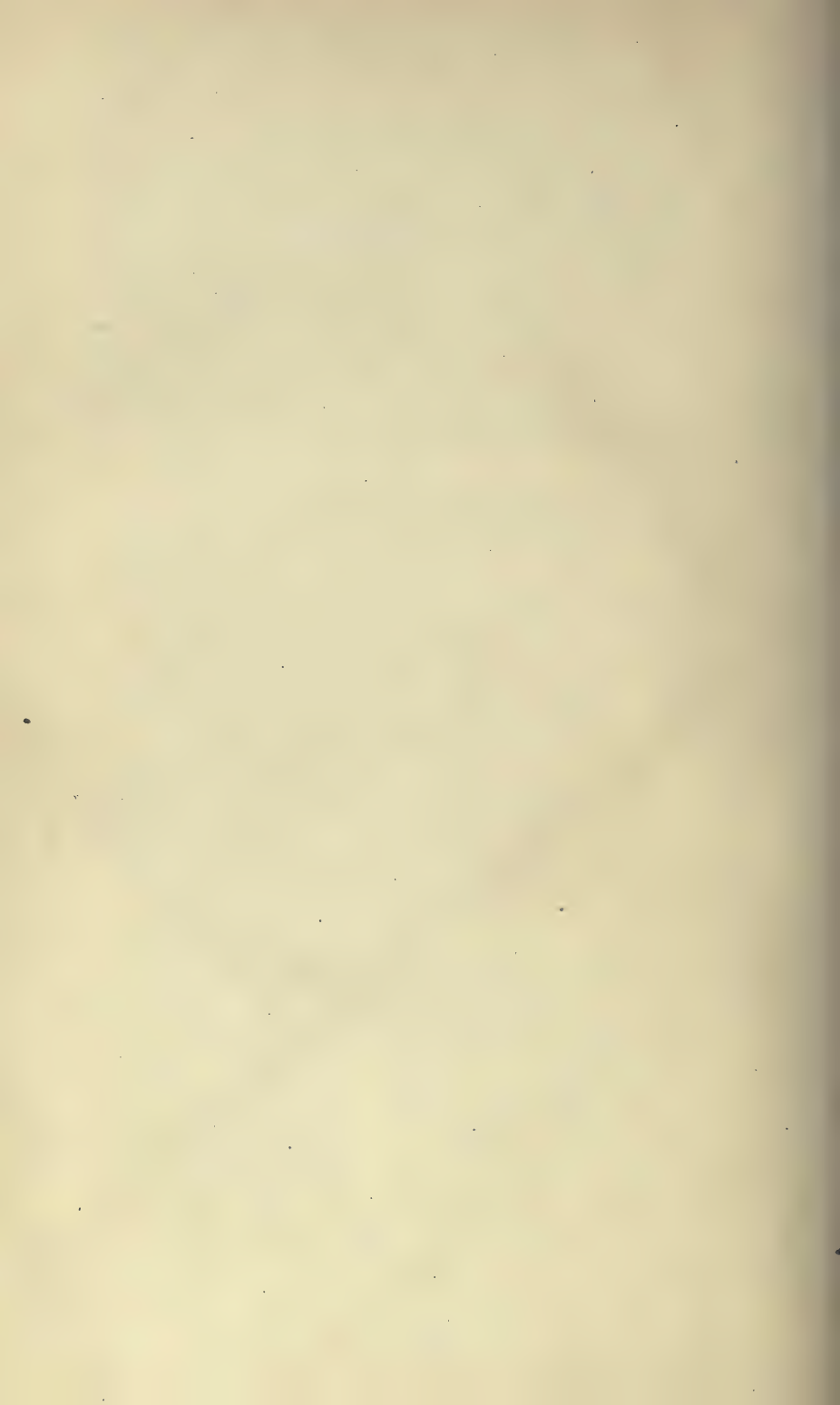
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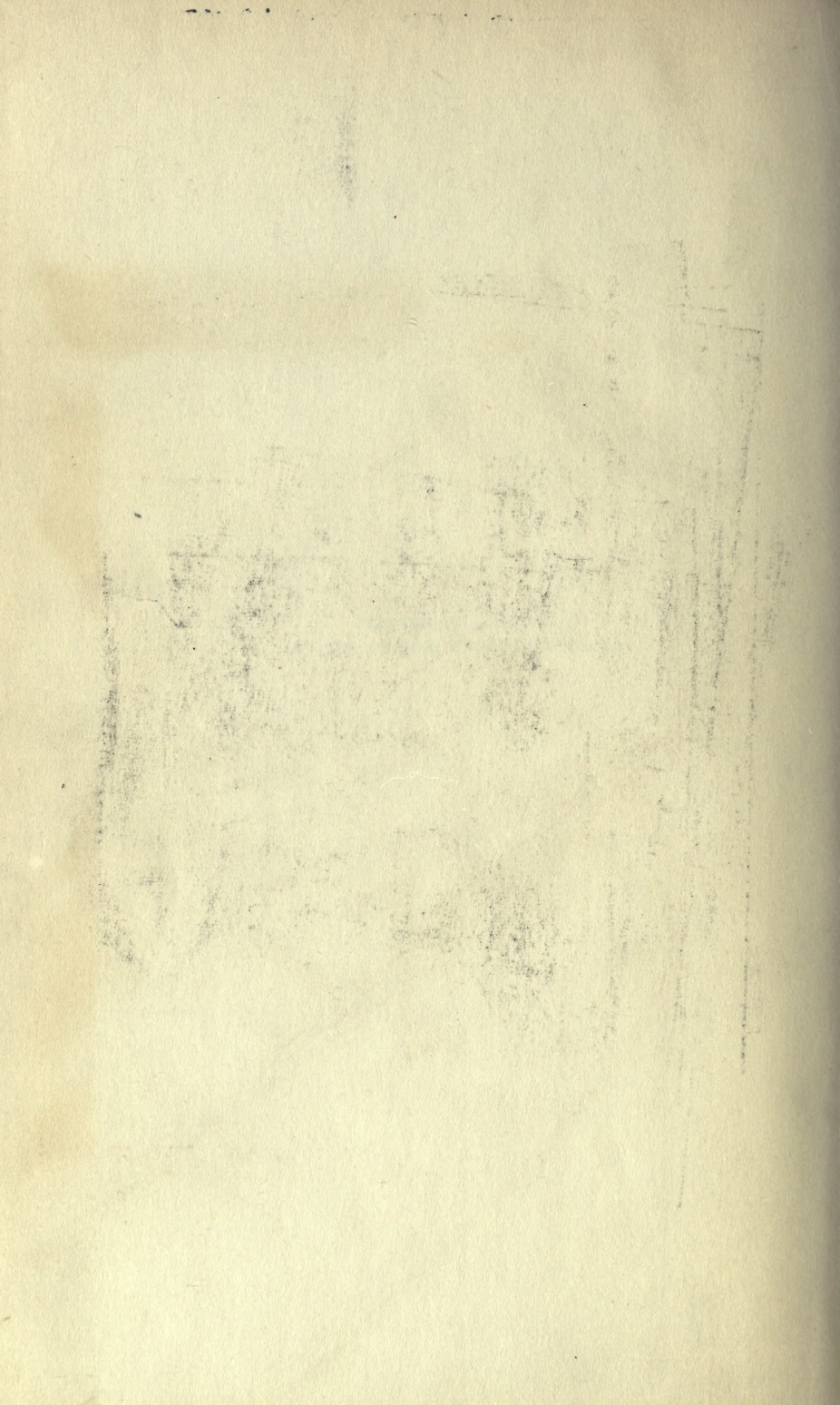




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